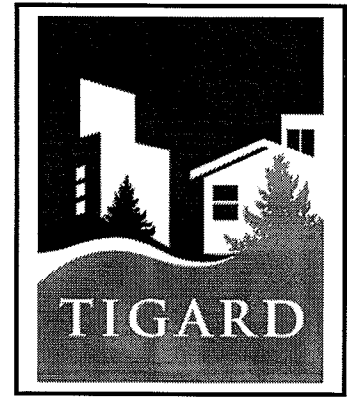




TIGARD CITY COUNCIL AND  
LOCAL CONTRACT REVIEW  
BOARD MEETING

FEBRUARY 27, 2007 6:30 p.m.

TIGARD CITY HALL  
13125 SW HALL BLVD  
TIGARD, OR 97223



PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A  
TIGARD CITY COUNCIL MEETING  
FEBRUARY 27, 2007

6:30 PM

- STUDY SESSION

- > City Center Advisory Commission 2006 Annual Report
  - ◆ Community Development Department Staff
- > Jaywalking Ordinance Discussion
  - ◆ Police Department Staff
- > Graffiti Ordinance Discussion
  - ◆ Police Department Staff
- > Status Update – Highway 99W Corridor Improvement and Management Plan
  - ◆ Community Development Department
- > Balloon Festival Use of Cook Park
  - ◆ Administration Department

- EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

1. BUSINESS MEETING

- 1.1 Call to Order - City Council & Local Contract Review Board
- 1.2 Roll Call
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports
- 1.5 Call to Council and Staff for Non-Agenda Items

2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)

- Tigard Area Chamber of Commerce Representative Ralph Hughes
- Follow-up to Previous Citizen Communication

3. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:
  - 3.1 Approve Council Minutes for January 23, 2007
  - 3.2 Establish the Fanno Creek Park/Plaza Master Plan Steering Committee – Resolution No. 07-\_\_\_\_\_
  - 3.3 Reassign City Center Advisory Commission (CCAC) Membership Terms – Resolution No. 07-\_\_\_\_\_
  - 3.4 Local Contract Review Board:
    - a. Award Contract for Fuel Delivery and Card-Lock Services at Both Captive and Foreign Sites to Bretthauer Oil Company
    - b. Award Contract for the Construction of SW 87<sup>th</sup> Court and Hall Boulevard Sanitary Sewer Extension (Sewer Reimbursement District No. 37)
    - c. Award Contract for the Construction of SW Hill View Street and 102<sup>nd</sup> Avenue Sanitary Sewer Extension (Sewer Reimbursement District No. 39)
  - *Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.*
4. UPDATE ON 2007 OREGON LEGISLATIVE SESSION WITH SENATOR BURDICK AND REPRESENTATIVE GALIZIO
  - ♦ Introduction: Administration Department
5. UPDATE FROM METRO COUNCILOR CARL HOSTICKA
  - ♦ Introduction: Administration Department
6. CONSIDER NAMING THE TUALATIN RIVER BICYCLE AND PEDESTRIAN BRIDGE THE “KI-A-KUTS BRIDGE” IN HONOR OF THE TUALATIN NATIVE AMERICAN HEADMAN, KI-A-KUTS
  - ♦ Staff Report: Public Works Department Staff
  - ♦ Council Discussion
  - ♦ Council Consideration: Resolution No. 07-\_\_\_\_\_
7. REVIEW CITY ENCROACHMENT PERMIT POLICY
  - ♦ Staff Report: Community Development Department Staff
  - ♦ Council Discussion
  - ♦ Council Consideration: Provide direction on a policy regarding structures that encroach into the rights of way, utility easements or other public property.

8. COUNCIL LIAISON REPORTS

9. NON AGENDA ITEMS

10. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

11. ADJOURNMENT

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Agenda Item #  
Meeting Date

Study Session  
February 27, 2007

**CITY CENTER DEVELOPMENT AGENCY AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/Agenda Title City Center Advisory Commission 2006 Annual Report

Prepared By: Phil Nachbar Dept Head Approval: TC City Mgr Approval: cl

**ISSUE BEFORE THE CITY CENTER DEVELOPMENT AGENCY**

Review City Center Advisory Commission (CCAC) 2006 Annual Report.

**STAFF RECOMMENDATION**

No formal action required.

**KEY FACTS AND INFORMATION SUMMARY**

As part of its new by-laws, adopted by Council in October 2006, the CCAC is responsible for submitting an Annual Report. The report is intended to summarize its activities for the year, and identify any specific recommendations to better accomplish its mission. The CCAC's mission, as defined in its by-laws, is to advise the City Center Development Agency, the Urban Renewal Agency for the City of Tigard, on matters pertaining to Urban Renewal Plan implementation and tax increment fund allocations for the City Center Urban Renewal District.

The year began with extensive citizen involvement to inform the public about the upcoming ballot measure in May 2006 in which voters would decide whether tax increment financing (Urban Renewal) could be used in the Downtown. The vote passed with a 65% majority. The CCAC became involved with efforts to inform the public and participated in the production of a video about the Downtown Plan and Urban Renewal.

There were several key projects in which the CCAC were directly involved. These included Commuter Rail, and the upgrade of a shelter for the new station, the Downtown Implementation Strategy, a preliminary framework study for new land use regulations and design guidelines for Downtown, the formation of new by-laws, two Metro Transportation Improvement Projects (MTIP) in Downtown, and the Fanno Creek Park Master Plan Request for Proposals (RFP).

**OTHER ALTERNATIVES CONSIDERED**

None.

**CITY COUNCIL GOALS**

Implementation of Downtown Plan, including specific objectives to assist in passage of Urban Renewal Plan, make changes to the Tigard Development Code for Downtown, and implement "catalyst" projects.

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**ATTACHMENT LIST**

CCAC 2006 Annual Report.

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**FISCAL NOTES**

No cost impact.

## 2006 Annual Report of the City Center Advisory Commission

The 2006 calendar year marks the first annual report of the Commission as set forth in Section 11 of the new By Laws. This year also began the prioritization, funding, and implementation of key projects identified in prior planning efforts. With the adoption of the Tigard Downtown Improvement Plan in September 2005, the Urban Renewal Plan in December 2005, and the passing of the Urban Renewal Ballot Measure in May of 2006, the ground work was completed to begin a more formal strategy for the Downtown. In August 2006, the City Center Development Agency (CCDA) adopted the *Downtown Implementation Strategy*, which will guide the City's policies and work program for the Downtown over a three (3) year period. The Strategy and work program will be updated annually.

The year began with extensive citizen involvement to inform the public about the upcoming Ballot Measure in May 2006, in which voters would decide whether Tax Increment Financing (Urban Renewal) could be used in the Downtown. The vote passed with a 65% majority. The CCAC became involved with efforts to inform the public and participated in the production of a video about the Downtown Plan and Urban Renewal.

There were several key projects in which the CCAC was directly involved. These projects included Commuter Rail, the upgrade of a shelter for the new Commuter Rail Station, the Downtown Implementation Strategy, a preliminary framework study for new land use regulations and design guidelines for Downtown, the formation of new By Laws, two Metro Transportation Improvement Projects (MTIP) in Downtown, and the Fanno Creek Park Master Plan Request for Proposals (RFP).

From June to September, the Commission worked on a bi-weekly schedule to review and provide policy direction for the development of preliminary land use / design guidelines for Downtown. The Commission is concerned about the impact of development proposals that will be submitted to the City prior to adopting new regulations. Such proposals have the possibility of being "out of sync" with the Downtown Plan, and could obstruct efforts to implement parts of the Plan. As a result, the Commission crafted a letter to potential development applicants in the Downtown, encouraging their adherence to the intent of the Downtown Plan. The letter, now with City Council approval, will be provided at all pre-application meetings for Downtown projects with staff present to explain how applicants can design their projects to be in line with anticipated the design guidelines for Downtown.

The Commission had three recommendations that were added to the preliminary set of land use and design guidelines. The CCAC recommended that staff: 1) evaluate the use of a "form-based code", 2) include height restrictions and a "view corridor" from 99W into Downtown, and 3) develop design guidelines that address the "architectural character" of a traditional Main Street. The Commission is very much in favor of developing a traditional Main Street. A "form-based code" is a new regulatory means of defining architectural criteria in graphic format. In addition, the Commission actively participated in two Outreach Open Houses to update and inform Downtown business and property owners about progress being made and the new regulations being undertaken. The direct efforts of CCAC members were instrumental in gaining attendance and developing relationships that may be helpful to the Downtown mission. Several Downtown business and property owners from these meetings have shown interest in participating in upcoming efforts. Obtaining the support of

Downtown business and property owners will be critical to the future success of Downtown projects.

The Commission worked with Staff to assist in the promotion of two MTIP projects which were identified for Downtown: 1) Main Street Retrofit, the redesign and reconstruction of approximately one half of Main Street in accordance with "Green Street" standards, and 2) Tigard Transit Center Redesign, a master plan to redesign the existing bus station and surrounding area for redevelopment, more efficient bus use, and pedestrian use. The CCAC wrote a letter of support to Metro, which was signed by all of its members. Several members and others made presentations at the Metro "listening posts" at locations in Beaverton and Downtown Portland to provide public testimony for these projects. The projects could significantly improve progress in the Downtown and both are still in the running. A decision will be forthcoming in March, 2007.

The Downtown Implementation Strategy was prepared by Staff and then reviewed and revised with input from the Commission. The Commission played the important role of ensuring that the projects and ideas in the Tigard Downtown Improvement Plan were incorporated appropriately into the Strategy. The Strategy was endorsed by the Commission, and adopted by the City Center Development Agency in August of 2006.


With the passage of the Urban Renewal Ballot Measure in May, the Commission's future became more secure, and the need for a redefinition of its mission was warranted. The Commission and staff drafted its By Laws and submitted them to Council for revision. The result is a set of By Laws with which both City Council and the Commission are comfortable, and ones for which the Commission feels a personal sense of ownership. They were adopted by Council in October 2006.

One of the key projects begun in 2006 is the Fanno Creek Park and Public Use Master Plan Area Request for Proposals (RFP). The RFP was issued in late November 2006, with proposals due in mid January 2007. The Commission has taken particular interest in the master plan, and looks forward to the role it will play in facilitating broad community support. The Chair of the CCAC will act as Chair of the Fanno Creek Park / Plaza Steering Committee. The design of a central public gathering space that truly meets the long-term needs and desires of the community is an important objective and will become our mission.

#### Additional Recommendations to Council:

In order to better carry out its mission, the City Center Advisory Commission requests that the City Center Development Agency make additional resources available through professional memberships and access to outside expertise, events, and publications.

Signed



Carl Switzer, Chair, City Center Advisory Commission



Agenda Item No. Study Session  
Meeting of 2.27.07

Meeting Date January 16, 2007

**COUNCIL AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/Agenda Title Follow-Up Presentation to Council by the Chief on Proposed Jaywalking Ordinance.

Prepared By: Chief Bill Dickinson Dept Head Approval: WMD <sup>b: HMD</sup> City Mgr Approval: cl

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**ISSUE BEFORE THE COUNCIL**

A new jaywalking ordinance was offered for Council consideration at the November 28, 2006, City Council meeting. Council directed staff to revisit several issues in the proposed ordinance. Staff is returning with a revised version for Council consideration and discussion.

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**STAFF RECOMMENDATION**

Staff recommends that Council consider placing this ordinance on a future Council business meeting agenda.

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**KEY FACTS AND INFORMATION SUMMARY**

The discussion with Council will be to review the recommendations and amendments stemming from Council comments during the November 28<sup>th</sup>, 2006 workshop meeting.

Staff reduced the distance for compulsory use of a crosswalk and established a clearly defined rule for citizens to follow when not within 100 feet of a crosswalk. The purpose of the ordinance is to enhance safety through the reduction of car vs. pedestrian accidents.

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**OTHER ALTERNATIVES CONSIDERED**

Redraft the proposed ordinance subject to further Council revisions.  
Do not consider passing a Jaywalking Ordinance.

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**CITY COUNCIL GOALS**

None.

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**ATTACHMENT LIST**

Attachment A: Draft Jaywalking Ordinance.  
Attachment B: ORS 801.220

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**FISCAL NOTES**

There is no cost associated with this presentation.

**DRAFT**

CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
ORDINANCE NO. 07-\_\_\_\_\_

AN ORDINANCE AMENDING THE TIGARD MUNICIPAL CODE BY ADDING A NEW SECTION 10.32.235 REGARDING USE OF CROSSWALKS (JAYWALKING)

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WHEREAS, Tigard has experienced collisions involving pedestrians and vehicles as well as injuries resulting from those collisions; and

WHEREAS, the City Council finds that guidelines for pedestrians crossing public roadways are necessary for increased public safety and to reduce the number of collisions involving pedestrians and vehicles;

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard Municipal Code is amended by adding a new Section 10.32.235 to read as follows:

10.32.235 USE OF CROSSWALKS (JAYWALKING)

1. No pedestrian may cross the street or roadway other than within a crosswalk if they are within 100 feet of a crosswalk.
2. A Pedestrian shall cross a street or roadway at a right angle unless crossing within a crosswalk.
3. For purposes of this section, "crosswalk" has the same meaning as found in Oregon Revised Statutes.
4. A violation of any provision of this section is a Class D violation notwithstanding any other provision in this chapter.

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By \_\_\_\_\_ vote of all Council members present after being read by number and title only, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Craig Dirksen, Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

**ORS 801.220**

**801.220 "Crosswalk."** "Crosswalk" means any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway that conform in design to the standards established for crosswalks under ORS 810.200. Whenever marked crosswalks have been indicated, such crosswalks and no other shall be deemed lawful across such roadway at that intersection. Where no marked crosswalk exists, a crosswalk is that portion of the roadway described in the following:

(1) Where sidewalks, shoulders or a combination thereof exists, a crosswalk is the portion of a roadway at an intersection, not more than 20 feet in width as measured from the prolongation of the lateral line of the roadway toward the prolongation of the adjacent property line, that is included within:

(a) The connections of the lateral lines of the sidewalks, shoulders or a combination thereof on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traveled roadway; or

(b) The prolongation of the lateral lines of a sidewalk, shoulder or both, to the sidewalk or shoulder on the opposite side of the street, if the prolongation would meet such sidewalk or shoulder.

(2) If there is neither sidewalk nor shoulder, a crosswalk is the portion of the roadway at an intersection, measuring not less than six feet in width, that would be included within the prolongation of the lateral lines of the sidewalk, shoulder or both on the opposite side of the street or highway if there were a sidewalk. [1983 c.338 §36]

Agenda Item No. Study Session  
Meeting of 2.27.07

## COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Presentation to Council by the Chief on a Proposed Graffiti Ordinance.

Prepared By: Chief Bill Dickinson Dept Head Approval: WMO City Mgr Approval: CP

### ISSUE BEFORE THE COUNCIL

Recent citizen complaints about the increased incidence of graffiti in Tigard prompted Council to direct staff to bring the issue and possible solution forward for discussion.

### STAFF RECOMMENDATION

Staff recommends that Council review statistical and anecdotal information regarding the graffiti problem in Tigard. Staff will present two recommended ordinances employed by neighboring jurisdictions for Council consideration. Both are effective ordinances; however, staff leans towards recommending a hybrid model of the two.

### KEY FACTS AND INFORMATION SUMMARY

The discussion with Council will determine whether or not to initiate a new ordinance to give police a tool to deal with the negative impact of graffiti crimes.

Information will be presented regarding the increased rates of graffiti in Tigard, including the incidence of gang graffiti, as well as an increase in hate crime graffiti that has been associated with some of our recent incidents.

The proposed ordinance is intended to provide a procedure for removal of graffiti from buildings, walls and other structures in order to reduce social and economic deterioration within the City and to promote public safety and health.

Material presented for review includes the City of Portland's Chapter 14B.80 (Graffiti Nuisance Property) and Tualatin's Municipal Code, Chapter 6-10 governing graffiti. These two examples offer both soft and hard line approaches toward addressing the removal of graffiti from private property. Although both models can be effective, staff recommends a hybrid model which first encourages compliance but ultimately gives us an effective tool for gaining compliance by property owners.

### OTHER ALTERNATIVES CONSIDERED

- Adopt City of Portland Ordinance
- Adopt City of Tualatin Ordinance.
- Take no action.

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## **CITY COUNCIL GOALS**

None.

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## **ATTACHMENT LIST**

Attachment A: Copy of language used in the City of Portland Municipal Code regarding graffiti.

Attachment B: Copy of Chapter 6-10 of the Tualatin Municipal Code..

Attachment C: Proposed hybrid ordinance.

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## **FISCAL NOTES**

No cost associated with this presentation.

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**Chapter 14B.80 Graffiti Nuisance Property**

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**14B.80.010 Declaration of Purpose.**

A. It is the purpose and intent of this ordinance to provide for a procedure for removal of graffiti from buildings, walls and other structures in order to reduce social deterioration within the City and to promote public safety and health.

B. The Manager may adopt procedures, forms, and written policies for administering and implementing the provisions of this Chapter.

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**14B.80.020 Graffiti Nuisance Property.**

A. Any property, building or structure within the City of Portland which becomes a graffiti nuisance property is in violation of this Chapter and is subject to its remedies.

B. Any person who permits property under their control to become a graffiti nuisance property shall be in violation of this Chapter and subject to its remedies.

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**14B.80.030 Definitions.**

For the purposes of this Chapter, the following definitions shall apply:

A. **Graffiti:** Any unauthorized markings of paint, ink, chalk, dye or other similar substance which is visible from premises open to the public, and that have been placed upon any real or personal property such as buildings, fences, structures, or the unauthorized etching or scratching of such described surfaces where the markings are visible from premises open to the public, such as public rights of way or other publicly owned property.

B. **Manager:** The Graffiti Abatement Manager is the City official, or designated representative, who is responsible for the administration of the Graffiti Nuisance Abatement program under this Chapter. In accordance with adopted procedures, the Manager may appoint such officers, employees and agents as shall be authorized and necessary to enforce the provisions of this Chapter.

C. **Graffiti Nuisance Property:** Property upon which graffiti has been placed and such graffiti has been permitted to remain for more than ten (10) days after the property owner of record has been issued written notification pursuant to Section 14B.80.040 B.

D. **Occupant:** Any person or sublessee, successor or assignee who has control over property.

E. **Owner:** Any person, agent, firm or corporation having a legal or equitable interest in a property and includes but is not limited to:

1. A mortgagor in possession in whom is vested all or part of the legal title to the property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises; or

2. An occupant who has control over the property/premises.

F. **Permit:** Knowingly to suffer, allow, or acquiesce by any failure, refusal or neglect to abate.

**G. Property:** Any real or personal property and that which is affixed incidental or appurtenant to real property but not limited to any premises, house, building, fence, structure or any separate part thereof, whether permanent or not.

**H. Unauthorized:** Without the consent of the owner or the occupant.

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**14B.80.040 Procedures.**

(Amended by Ordinance No. 178352, effective May 28, 2004.)

**A. Required Graffiti Removal.** The owner or occupant of any property in the City shall remove any graffiti from such property within ten (10) days of the graffiti's appearance.

**B. Notification**

1. Whenever the Manager determines that graffiti exists on any structure in the City of Portland, the Manager may issue an abatement notice.
2. The Manager shall cause the notice to be served upon the property owner and any occupant. The owner or occupant shall have ten (10) days after the date of service of the notice in which to remove the graffiti. The Graffiti Abatement Manager shall have the sole discretion to grant the property owner the option of giving the City written permission to enter on the property and remove the graffiti.
3. Service shall be accomplished by addressing the notice to the owner and occupant and sending it by personal service, registered mail or certified mail. Service on the occupant may also be accomplished by posting the notice in a clearly visible location on the subject property.
4. If graffiti is not removed or written permission is not given to the City to remove the graffiti, the costs of removal may be assessed to the owner and will become a lien on the affected property. For each instance of graffiti abatement, the Manager shall keep an accurate account of all expenses incurred, including an overhead charge of 25 percent for program administration and a civil penalty of \$250 for each abatement. In the event that the measures taken are deemed by the Code Hearings Officer to be appropriate, the cost for the same may be made as an assessment lien upon the property.

**C. Appeal**

1. Within ten (10) days of the receipt of the notice, the property owner or occupant may appeal the notice from the Manager to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10 of this Code.
2. Upon receipt of the appeal request, the Code Hearings Officer shall set the matter for hearing within ten (10) business days. If the Code Hearings Officer finds the property to be a Graffiti Nuisance Property, and the owner or responsible party has been given notice in accordance with Subsection B. above, the Code Hearings Officer shall specify when and under what conditions the graffiti shall be abated.

**D. Removal of Graffiti**

1. The Manager may summarily abate any graffiti on any utility poles and cabinets, on exterior walls and fences immediately abutting public streets or property, or on any public property,



including but not limited to traffic signs and lights.

**2.** Whenever the Manager has reasonable cause to believe that there exists upon any building or structure any graffiti requiring abatement under this Chapter, the Manager may enter upon the graffiti nuisance property at all reasonable times to perform any duty imposed on the Manager under this Chapter, and to enforce the provisions of this Chapter. Upon the failure to comply with the notice of abatement by the designated compliance date, and if the property owner or occupant has not appealed the notice as provided under Subsection C., the following steps may be taken if the graffiti nuisance property is plainly enclosed to create privacy and prevent access by unauthorized persons:

**a.** If the graffiti nuisance property is occupied, the Manager shall first present proper credentials and demand entry to cause the graffiti to be abated. If entry is refused, the Manager may attempt to secure entry by any legal means.

**b.** If the graffiti nuisance property is unoccupied, the Manager shall first make a reasonable attempt to locate the owner or occupant and demand entry. Such demand may be included in the initial notice sent to the owner or occupant under Subsection B. above. If entry is refused, the Manager may attempt to secure entry by any legal means.

**(1)** If the Manager has first obtained an administrative search warrant to secure entry onto the graffiti nuisance property to abate the graffiti, no owner or occupant shall refuse, fail or neglect, after proper request, to promptly permit entry by the Manager to abate the graffiti.

**(2)** It shall be unlawful for any owner or occupant to refuse to permit entry by the Manager to abate graffiti under this Chapter after an administrative search warrant has been obtained. Any violation of this Subsection is punishable upon conviction by a fine of not more than \$500 and a jail sentence of up to six months.

**c.** If the graffiti is not removed and abated, or cause shown, as specified above, the Manager may cause the graffiti to be removed and abated upon issuance of an Administrative Search warrant.

**(1) Graffiti Abatement.** If the graffiti is not removed and abated, or cause shown, as specified above, the Manager may cause the graffiti to be removed and abated.

**(2) Warrants.** The Manager may request any Circuit Court judge to issue a graffiti abatement warrant whenever entry onto private property is necessary to remove and abate any graffiti.

**(3) Grounds for Issuance of Graffiti Abatement Warrants; Affidavit.**

**(a) Affidavit.** A graffiti abatement warrant shall be issued only upon cause, supported by affidavit, particularly describing: the applicant's status in applying for the warrant; the ordinance or regulation requiring or authorizing the removal and abatement of the graffiti; the building or property to be entered; the basis upon which cause exists to remove or abate the graffiti, and a statement of the graffiti to be removed or abated.

**(b) Cause.** Cause shall be deemed to exist if there is reasonable belief that a

graffiti violation exists, as defined in this Chapter, with respect to the designated property, and that the property owner has been given notice and an opportunity to abate the graffiti, and has not responded in a timely fashion.

**(4) Procedure for Issuance of a Graffiti Abatement Warrant.**

**(a) Examination.** Before issuing a graffiti abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.

**(b) Issuance.** If the judge is satisfied that cause for the removal and abatement of any graffiti nuisance exists and that the other requirements for granting the application are satisfied, the judge shall issue the graffiti abatement warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions abated. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

**(c) Police Assistance.** In issuing a graffiti abatement warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the bureau in any way necessary to enter the property and, remove and abate the graffiti.

**(5) Execution of Graffiti Abatement Warrants.**

**(a) Occupied Property.** Except as provided in 14B.80.040 D.2., in executing a graffiti abatement warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. A copy of the warrant shall be left with the occupant or the person in possession.

**(b) Unoccupied Property.** In executing a graffiti abatement warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in 14B.80.040 D.2.c.(5)(a), but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the graffiti abatement warrant shall be conspicuously posted on the property.

**(c) Return.** A graffiti abatement warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

**E. Graffiti Abatement Consent Forms.**

- 1.** The Manager shall develop consent forms allowing the Manager to enter onto property to abate the graffiti without prior notice from the Manager. The Manager shall make these consent forms available to the public.
- 2.** Property owners and occupants may request and sign consent forms for allowing graffiti abatement. The Graffiti Abatement Manager shall renew the consent forms at least biannually.

## Tualatin Municipal Code

6-10-010

## Chapter 6-10

## Graffiti

## Sections:

**6-10-010 Definitions.****6-10-020 Graffiti Prohibited.****6-10-030 Possession of Graffiti Implement Prohibited.****6-10-040 Other Violations.****6-10-050 Community Service.****6-10-060 Graffiti Removal; Notice and Procedures.****6-10-070 Emergency Clause.****6-10-010 Definitions.**

(1) "Abate" means to remove graffiti from the public view.

(2) "Aerosol paint container" means any aerosol container adapted or made for spraying paint.

(3) "Etching device" means a glass cutter, awl or any device capable of scratching or etching the surface of any structure or personal property.

(4) "Felt tip marker" means an indelible marker or similar implement with a tip which, at its broadest width, is greater than one-fourth inch.

(5) "Graffiti" means any inscription, word, figure, or design that is marked etched, scratched, drawn, or painted on any surface with paint, ink, chalk, dye or other similar substance, regardless of content, which is visible from premises open to the public, such as public rights of way or other publicly-owned property, and that has been placed upon any real or personal property, such as buildings, fences, and structures, without authorization from the owner or responsible party.

(6) "Graffiti implement" means an aerosol paint container, a felt tip marker, an etching device, or a graffiti stick.

(7) "Graffiti nuisance property" means a property upon which graffiti has been placed and such graffiti has been permitted to remain for more than seven days after the property owner of record or occupant has been issued written notification.

(8) "Graffiti stick" means a device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-fourth of an inch wide.

(9) "Manager" means the Tualatin City Manager or the manager's designee who is responsible for the administration of the graffiti nuisance abatement program under this chapter.

(10) "Occupant" means any person, tenant, sublessee, successor or assignee that has control over property.

(11) "Owner" means any person, agent, firm or corporation having a legal or equitable interest in a property and includes but not limited to a mortgagor in possession, an occupant, or a person, agent, firm or corporation that owns or exercises control over items of property, such as utility poles, drop boxes, postal collection boxes, and other types of containers.

(12) "Permit" means to knowingly allow, suffer, acquiesce by a failure, refusal or neglect to abate.

(13) "Premises open to the public" means all public spaces, including but not limited to streets, alleys, sidewalks, parks, rights of way and public open space, and private property onto which the public is regularly invited or permitted to enter for any purpose.

(14) "Property" means any real or personal property, including but not limited to items affixed or appurtenant to real property or premises, house, building, fence, or structure, and items of machinery, drop boxes, waste containers, utility poles and vaults, and post office collection boxes.

(15) "Responsible party" means an owner, an entity or person acting as an agent for an owner by agreement, that has authority over the property or is responsible for the property's maintenance or management. There may be more than one party responsible for a particular property.

(16) "Unauthorized" means without consent of the owner, occupant or responsible party.

[Ord. 1205-06, March 13, 2006]

**6-10-020 Graffiti Prohibited.**

(1) It is unlawful and a violation of this chapter for any person to place or put by any means, any drawing, inscription, figure, symbol, mark, or any type of commonly known graffiti on any public or private property without the consent of the owner of

the premises on which the property is located, or upon natural surfaces such as rocks, trees or any surface whatsoever. It is unlawful and a violation of this chapter for any person to solicit or command another person to apply graffiti or aid or abet another person in applying graffiti.

(2) A violation of subsection (1) of this section is a violation punishable by a maximum fine not to exceed three hundred sixty dollars. Each wall or object upon which graffiti is placed constitutes a separate violation. Each day on which a violation occurs or continues is a separate violation.

[Ord. 1205-06, March 13, 2006]

#### **6-10-030 Possession of Graffiti Implement Prohibited.**

(1) No person may possess, with the intent to unlawfully apply graffiti on any real or personal property of another, any graffiti implement.

(2) Unlawful possession of a graffiti implement is a violation of this chapter punishable by a maximum fine not to exceed ninety dollars. Each day on which a violation occurs is a separate violation.

(3) In addition to issuing a citation, a graffiti implement used or possessed in violation of this section may be immediately seized and impounded by the police department. The court, upon disposition of the issued citation, shall determine whether the instrument shall be returned to the defendant or deemed to be contraband subject to destruction under Oregon law.

[Ord. 1205-06, March 13, 2006]

#### **6-10-040 Other Violations.**

(1) Any property located in the City of Tualatin that becomes a graffiti nuisance property is in violation of this chapter and is subject to its remedies.

(2) Every responsible party who permits a property to become a graffiti nuisance property is in violation of this chapter and subject to its remedies.

[Ord. 1205-06, March 13, 2006]

#### **6-10-050 Community Service.**

In lieu of a portion of any fine that may be imposed under TMC 6-10-020 and 6-10-030, the court shall order the violator to perform community service, unless the court finds that special circum-

stances exist that would preclude such service. Reasonable effort shall be made to require the violator to perform a type of community service that is reasonably expected to have the most rehabilitative effect on the person, preferably community service that constitutes in significant part the removal of graffiti.

[Ord. 1205-06, March 13, 2006]

#### **6-10-060 Graffiti Removal; Notice and Procedures.**

(1) The owner or occupant of any property within the City of Tualatin shall remove any graffiti from that property within seven days of the graffiti's appearance.

(2) Whenever the Manager determines that graffiti exists on any property in the City, the Manager may issue an abatement notice. The owner or occupant shall have seven days after the date of service of the notice to remove the graffiti.

(3) The notice shall be served by addressing the notice to the owner and occupant and delivering it by personal service or by mailing it as certified mail. Service may also be accomplished by posting the notice in a clearly visible location on the subject property.

(4) If the person who was served the notice is unable to remove, or cause to remove, the graffiti within the seven-day period due to a hardship, he or she may apply to the Manager for an extension of time in which to remove the graffiti. For purposes of this subsection, "hardship" includes but is not limited to serious illness or disability, extremely inclement weather that temporarily prevents removal of the graffiti, or other extraordinary circumstance.

(5) If graffiti is not removed within seven days after serving notice on the owner and occupant, the Manager may cause a citation to be issued to the owner or occupant or both requiring the person to appear in Tualatin Municipal Court.

(6) Failure to remove graffiti as required by this section is a violation punishable by a fine of up to one hundred fifty dollars. Each day the graffiti remains after the notice is sent constitutes a separate offense.

# Tualatin Municipal Code

6-10-070

(7) The City Manager may adopt rules and procedures to implement this chapter.

[Ord. 1205-06, March 13, 2006]

**6-10-070      Emergency Clause.** [Ord. 1205-06 §7, March 13, 2006]

## **Graffiti Ordinance**

### **Definitions**

- 1) "Abate" means to remove graffiti from the public view.
- 2) "Graffiti" means any inscription, word, figure, or design that is marked, etched, scratched, drawn or painted on any surface with paint, ink, chalk, dye, other similar substance or placement of stickers or appliques, regardless of content, which is visible from premises open to the public, such as public right of ways or other publicly-owned property, and that has been placed upon any real or personal property, such as buildings, fences, and structures, without authorization from the owner or responsible party.
- 3) "Graffiti nuisance property" means a property upon which graffiti has been placed and such graffiti has been permitted to remain for more than 14 days after the property owner of record or occupant has been issued written notification.
- 4) "Manager" means the Tigard City Manager or the manager's designee who is responsible for the administration of the graffiti nuisance abatement program under this chapter.
- 5) "Occupant" means any person, tenant, sublessee, successor or assignee that has control over property.
- 6) "Owner" means any person, agent, firm or corporation having a legal or equitable interest in a property and includes but not limited to a mortgagor in possession, an occupant, or a person, agent, firm or corporation that owns or exercises control over items of property such as utility poles, drop boxes, postal collection boxes, and other types of containers.
- 7) "Permit" means to knowingly allow, suffer, or acquiesce by any failure, refusal, or neglect to abate.
- 8) "Premises open to the public" means all public spaces, including but not limited to streets, alleys, sidewalks, parks, rights of way and public open space, and private property onto which the public is regularly invited or permitted to enter for any purpose.
- 9) "Property" means any real or personal property, including but not limited to items affixed or appurtenant to real property or premises, house, building, fence or structure and items of machinery, drop boxes, waste containers, utility poles and vaults, and post office collection boxes.
- 10) "Responsible party" means an owner, an entity or person acting as an agent for an owner by agreement, that has authority over the property or is responsible for the property's maintenance or management. There may be more than one party responsible for a particular property.
- 11) "Unauthorized" means without consent of the owner, occupant or responsible party.

## **Graffiti Nuisance Property**

- 1) Any property location in the City of Tigard that becomes a graffiti nuisance property is in violation of this chapter and is subject to its remedies.
- 2) Every responsible party who permits a property to become a graffiti nuisance property is in violation of this chapter and subject to its remedies.

## **Graffiti Removal; Notice and Procedures**

- 1) The owner or occupant of any property within the City of Tigard shall remove any graffiti from that property within 14 days of the graffiti's appearance.
- 2) Whenever the Manager determines that graffiti exists on any property in the City, the Manager may issue an abatement notice. The owner or occupant shall have 14 days after the date of service of the notice to remove the graffiti.
- 3) The notice shall be served by addressing the notice to the owner or occupant and delivering it by personal service or by mailing it as certified mail. Service may also be accomplished by posting the notice in a clearly visible location on the subject property.
- 4) If the person who was served the notice is unable to remove, or cause to remove, the graffiti within the seven-day period due to a hardship, he or she may apply to the Manager for an extension of time in which to remove the graffiti. For purposes of this subsection, "hardship" includes but is not limited to serious illness or disability, extremely inclement weather that temporarily prevents removal of the graffiti, or other extraordinary circumstance.
- 5) If the graffiti is not removed within 14 days after serving notice on the owner or occupant, the Manager may cause a citation to be issued to the owner or occupant or both requiring the person to appear in Tigard Municipal Court.
- 6) Failure to remove the graffiti as required by this section is a violation punishable by a fine of up to one hundred dollars. Each day the graffiti remains after the notice is sent constitutes a separate offense.
- 7) The City Manager may adopt rules and procedures to implement this chapter.





## MEMORANDUM

TO: Mayor and City Councilors  
Craig Prosser, City Manager

FROM: Gus Duenas *Gus*  
City Engineer

RE: Status Update – Highway 99W Corridor Improvement  
and Management Plan

DATE: February 13, 2007

The preparation of the Highway 99W Corridor Improvement and Management Plan began August 18, 2006. The grant amount is \$176,000 matched by \$24,000 in local funds for a total project amount of \$200,000. Completion of the project is a current City Council Goal.

### Project Objectives

- Develop concept-level plans for transportation improvements, including roadway cross-section, changes to channelization and traffic control, and identification of alternative mode facilities on 99W, including crosswalks and transit stops.
- Identify solutions to accommodate regional and local travel demand in the corridor through transportation improvements and access management.
- Identify an integrated system of bicycle, pedestrian and transit facilities to the corridor, including facilities on cross-streets up to one quarter mile from 99W.
- Explore options for improving local circulation, particularly to reduce local trip demand on 99W.
- Ensure consistency with state and local transportation plans.
- Ensure the development and selection of alternatives address social, environmental and financial impacts.
- Ensure coordination with stakeholders agencies including Metro, Tri-Met and Oregon Department of Transportation.
- Ensure community stakeholders have an opportunity to learn about corridor issues and provide input through an effective public involvement process.

The expected outcome is a package of projects that can be implemented over a period of years to ensure that the most benefits are received for project dollars in future construction. The project will also identify opportunities for potential land use changes that could be implemented as redevelopment occurs or explored through future land use studies.

### **Plan Preparation**

The consulting team of OTAK, Inc. and DKS Associates is preparing the plan with oversight and management by ODOT and City of Tigard staff. A TAC (Technical Advisory Committee), consisting of representatives from agencies and jurisdictions that have an interest in Highway 99W, has been formed to ensure coordination among agencies and jurisdictions and to provide technical oversight. The TAC ensures that information is accurate and that the ultimate products are technically feasible and consistent with interests and goals of public agencies potentially affected by the project.

A CAC (Citizen Advisory Committee) has also been formed to guide the preparation of the plan and to ensure that the plan takes the citizens' perspective into account in the plan preparation. The CAC is composed of a cross-section of the community with stakeholders along the corridor and the City at-large represented in the membership.

### **Project Schedule**

The project goals will be achieved by completion of the following tasks:

Task 1 - Project Management, Interagency Coordination and Public Involvement. This task will continue throughout the project.

Task 2 - Existing Conditions, Plans, and Policies. The report for this task was completed January 2007.

Task 3 - Identify Needs, Opportunities and Constraints. This task was completed with an opportunity for the public to review the report at a February 7, 2007 Open House meeting. Public comments were obtained through direct interaction with the consultants and City staff and through a questionnaire made available at the meeting.

Task 4 - Alternatives Development. The report for this task is expected to be available for public review on April 12, 2007. The report will be presented and comments from the public will be requested at an Open House meeting (the second of three) scheduled for 6:30 PM Thursday, April 19, 2007 at City Hall. The public input period will be held open for a week following the meeting. Input received will be considered in the evaluation of alternatives.

Task 5 - Alternatives Evaluation. The evaluation report is expected to be available on May 24, 2007. The report will be presented and comments from the public will be requested at an

Open House meeting (the third of three) scheduled for 6:30 PM Thursday, June 7, 2007 at City Hall. The public input period will be held open for a week following this meeting.

Task 6 - Refinement/Implementation. This task will result in the final plan, which is expected to be available in early July 2007.

Attached is a chart providing an overview of the plan preparation process including the tasks and overall timeline for completion.

### **Current Status**

The Existing Conditions (Task 2) and Needs, Opportunities and Constraints Reports (Task 3) have been submitted. The Existing Conditions Report provided up-to-date information on the existing highway and identified policies, standards and best-practices guidelines to be applied in subsequent tasks. The Needs, Opportunities and Constraints Report identified the transportation needs within the corridor, developed potential measures to alleviate congestion and enhance multi-modal transportation options, and identified opportunities for applying these solutions together with tradeoffs inherent in each measure.

An open house meeting (the first of three) was conducted Wednesday, February 7, 2007 at 6:30 PM in the Tigard Library Community Meeting Room. The purpose of this first public meeting was to get a sense from the community as to whether or not the future needs have been accurately and comprehensively identified, and that the measures that have been developed are appropriate to address those needs. A project overview, project status update, and a summary of the identified needs, opportunities and constraints were presented at this meeting. The meeting was well-attended by approximately 35 citizens (many who lived along or had business interests along the corridor) who listened to the presentation and provided input to help guide the preparation of the plan.

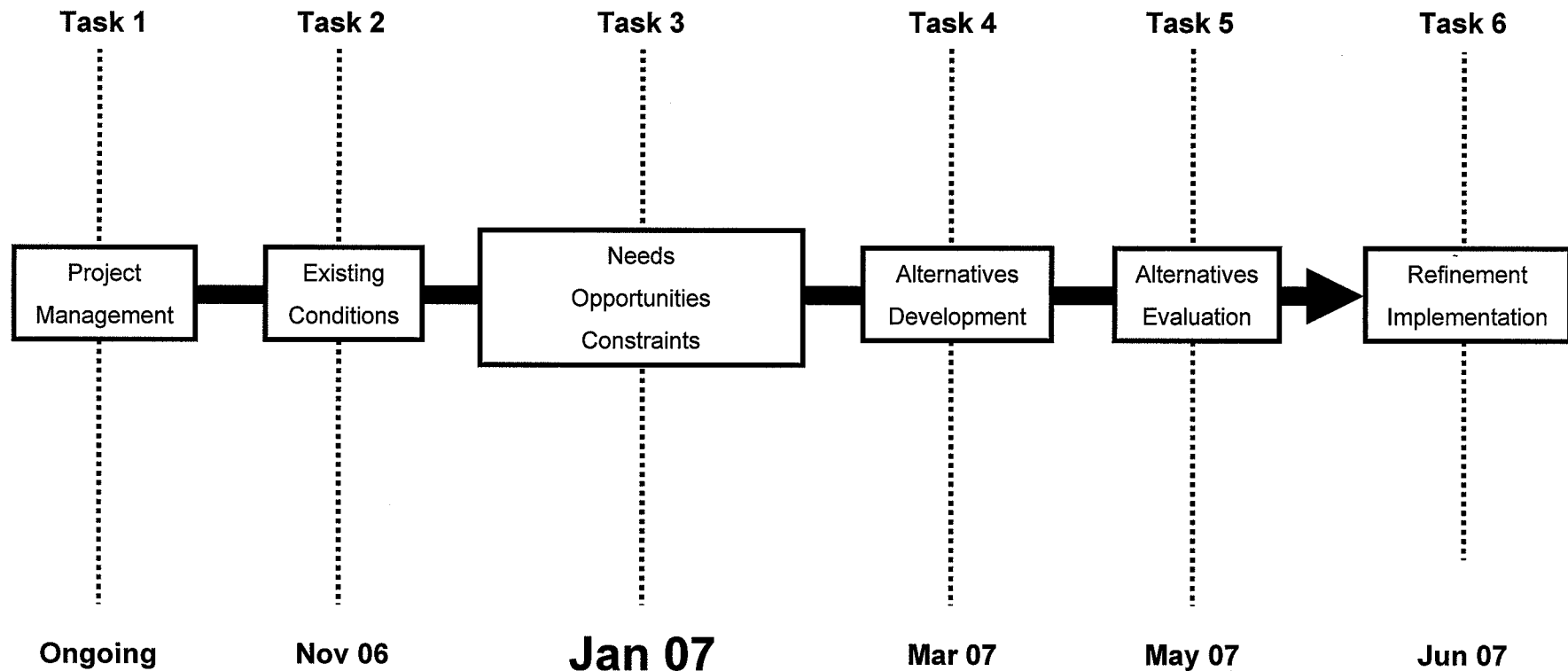
The needs, opportunities and constraints identified will be used as a basis for the development of alternatives, which is the next phase of the project. Stakeholder interviews will be conducted as part of the next phase to obtain more detailed input from citizens and businesses along the corridor.

The next open house meeting will seek public input on the alternatives developed during Task 4. It is scheduled for 6:30 PM Thursday, April 19, 2007 at City Hall. Those attending will be requested to comment on which alternatives should be included in the final plan. The comments will be considered in the preparation of the report for Task 5 - Alternatives Evaluation. The third and final open house meeting is scheduled for Thursday, June 7, 2007 at City Hall. The project will be considered complete after presentation of the plan recommendations to Council sometime in July or August 2007.

### **Attachment**

c: Tom Coffee, Community Development Department Director  
Ron Bunch, Long Range Planning Manager

# Overview of Project Process



**Highway 99W Corridor Improvement and Management Plan**

Agenda Item No. 3.1  
For Agenda of Feb. 27, 2007



*Tigard City Council Meeting Minutes*

Date: January 23, 2007  
Time: 6:30 p.m.  
Place: Tigard City Hall, 13125 SW Hall Boulevard  
Tigard, Oregon  
Attending: Council President Sherwood  
Councilor Gretchen Buehner  
Councilor Sally Harding  
Councilor Tom Woodruff  
Absent: Mayor Dirksen

Agenda Item	Discussion & Comments	Action Items (follow up)
Study Session	Council President Sherwood called the meeting to order at 6:30 p.m.	
Review Encroachment Permit Policy	<p>Community Development Director Coffee introduced this item and Right-of-Way Administrator Werner. The issue before the City Council was a review of the City policy for permitting encroachments into the rights of way or easements, including a recommended \$300 permit fee. Council will be asked to approve the permit fee at a later date.</p> <p>Right-of-Way Administrator Werner explained she was referring, for the most part, to fences and retaining walls that are built in the right-of-way or public utility easement or even in parks or other public land. There is a Code provision dealing with encroachments that requires a homeowner to obtain a permit before they can put anything in the right of way with the exception of a mailbox, lawn plantings and a few other things, such as handrails to steps and anything else that would have a minor impact on the primary or planned use of the right-of-way easement so long as there is not a line-of-sight hazard issue. People never come to get these permits; in fact, there was not even a permit form to be used. If there is a fee, it would need to be set by City Council resolution.</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>Right-of-Way Administrator Werner said an issue would likely occur when people have already built something such as a fence and the City staff tells them that their fence is in the right of way and it will need to be moved or they need to get a permit and pay a fee. She said she wanted to make sure the City Council is aware because people might be upset when the City contacts them and asks them to relocate their retaining wall or fence. Ms. Werner said the Code is written such that the exception for a minor impact on the use of the right of way will keep a lot of people from being required to obtain a permit. Many of the rights of way are completely built out or the City has no plans to do anything on the right of way and, therefore, people would not be asked to remove anything unless there is a sight or other safety issue.</p> <p>There are a host of problems. For example, if you allow one person's fence to stay up and the neighbor wants to put one up, there will be a problem. There will be some issues that will need to be worked out. The plan staff is proposing is that before a structure is built, a permit will be obtained from Community Development Department staff. If there is a complaint from a resident that appears to be an issue, Community Development Department staff will view the situation to determine if it is a hazard or if it can be considered an exception to the Code and ignored. Another option would be to allow it, but require a permit. Ms. Werner said that part of the benefit of the permit is that it is a revocable permit that is recorded with Washington County so that it is clear that the use has been allowed but could be required to be removed at the applicant's expense. The permit would document the reason why the structure is being allowed.</p> <p>Ms. Werner said, basically the staff's proposal is to enforce the Code that is already in place.</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>Council President Sherwood asked if staff was going to start looking for violations or will it be complaint driven? Ms. Werner said enforcement activities would be complaint driven. However, sometimes staff sees where someone has built a fence around a speed limit sign or stop sign, which are blatant. Most of the time, the encroachments fall within the exception of a minor impact and, in this case, a permit would not be needed. For the most part, Ms. Werner said staff could ignore the minor impacts because there is no hazard and it does not impact the right of way.</p> <p>Council President Sherwood referred to recent boat-cover issues with a number of properties. Community Development Director Coffee said there are twelve such properties and he said he thought the City Council might hear more about this at their Fifth Tuesday meeting. These have to do with violations of setbacks. This issue now before the City Council deals with situations that are regulated in the Code: Do not build in the right of way. There has been no systematic procedure for allowing encroachment in the right of way and no permits have been issued to give the City a revocable right making it clear that when it comes time to use the right of way that either the applicant or the successor to the property has agreed to the revocable permit. If this is done over time then the City will be in a better position as "right-of-way requirements become real." Community Development Director Coffee said there is also a potential safety problem because of visibility. Recently there have been the storage containers (PODS), which are placed in the right of way and stay there for a long period of time. The Code can be cited to have the person move it or to issue a permit to establish a time period. He said this would give the staff the authority to more consistently enforce the Code. The bottom line is that the Code has been written for a reason, which is to protect the right of way.</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>In response to a question from Councilor Woodruff, Community Development Director Coffee explained that a similar action could be taken as what was done with front-yard structures; that is, publish an article in <i>Cityscape</i> to educate the residents about setbacks and that structures are prohibited. Right-of-Way Administrator Werner said that, internally, staff needs to do a better job when people call and ask about requirements for building a fence to consistently tell these people about the requirements if there is an easement or right of way. She said she thinks staff uses the height requirements and, if the structure is below that height limit, the person is told they are “fine” and can build the structure.</p> <p>Council President Sherwood noted her concerns of this being acceptable for years and now charging a fee and requiring a permit. City Manager Prosser said people often don’t realize that their property line is not to the curb; often it is five or six feet back from the curb because there is space allowed for a sidewalk. Therefore, if a fence has been built to the curb, then the fence is in the right of way – that’s an issue. If there is a fence in the middle of the block of a residential area and no sight obstruction is present and no sidewalk is planned, then it is not a problem.</p> <p>Councilor Harding asked whether a revocable permit was absolutely necessary. Councilor Buehner said there are legal reasons why this is needed. Right-of-Way Administrator Werner said the City could attempt to enforce the Code, but the difficulty is when the fence is in the right of way and “you’ve driven by that fence every day for ten years and now you want to enforce the Code...we are in a better position if we’ve done something ahead of time.” Councilor Harding disagreed with a sentence in the staff’s packet materials stating that if the encroachment complies with Code requirements, a permit and permit fee will be needed. Right-of-Way</p>	



Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>Administrator Werner responded that she thought there were two issues:</p> <ol style="list-style-type: none"> <li>1. Do we like the policy of trying to enforce the Code?</li> <li>2. What should the fee be, if anything?</li> </ol> <p>This will take a lot of staff time – a site visit would be needed, a plan review for a structure and then an inspection of the structure once built. Because of the staff time required a fee was proposed.</p> <p>Right-of-Way Administrator Werner said perhaps there could be different levels of a fee. For example, if you come in before the structure is built the fee would be less than if a permit is requested after the structure is in place. Council President Sherwood suggested there be an effort, at first, to have people come get a permit even if a structure is already in place. Councilor Harding said another way to look at it is if a home is sold, at the point of sale, one of the items checked before the title is signed off is that there be a compliance review by the City and the fee would be paid at that time. Councilor Harding noted a concern that trying to look at the entire City at once would be construed negatively. City Manager Prosser said he did not think staff was proposing to do this in a blanket effort across the City. It would still be complaint driven or as problems are identified. Councilor Harding referred to the possibility of ending in a neighbor-against-neighbor type of situation.</p> <p>Right-of-Way Administrator Werner said staff has discussed this and they think the biggest problem is that if we choose not to do anything, when the next neighbor decides to do the same thing, you “pretty much have to let them do it.” Consistency in enforcement is needed. A decision is needed about how to enforce this section of the Code because it is difficult to enforce it now and not look at what is existing. The fee can be a separate issue and the decision</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>could be for no fee, a nominal fee, or a fee based on scale.</p> <p>Councilor Buehner noted she remembered reading a case where there was an argument made successfully that unless it was a revocable license, it could be construed as an irrevocable license. The City does not want to be in a situation where it cannot resolve issues “down the road.”</p> <p>Council President Sherwood said this is something that needs to be discussed in more detail and asked that this be scheduled for a work session for further Council review. In response to a question from Councilor Woodruff, Council President Sherwood indicated that she thought there would be a hearing before the Council makes a decision. Community Development Director Coffee reminded the City Council that the Code provisions are already in place and stated that it is not in the public interest to allow property owners to encroach on the right of way. Customs, over a period of time, have evolved where people have claimed the right of way, and the encroachment has been ignored unless an issue came up that made it necessary for staff to enforce the Code. Community Development Director Coffee said, “That’s not a very good way to run a business. You ought to be saying, ‘If that’s important, at least prospectively, we ought to be insuring that people who want to build in our right of way get a permit.’ It’s not suggesting that we go out and round up everybody who has planted a tree or a fence in the right way. We ought to establish from a ‘day certain’ how we are going to administer this Code or get rid of it, quite frankly. Because we are saying two things: We’re saying don’t build in the right of way, but go ahead. So, that’s kind of the policy issue and, I think you are right, a workshop discussion that goes into it deeper, that’s fine. Then, if we want to have a hearing, we can. But, it’s not like we are enacting new legislation. We are simply saying, ‘How do we</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
<ul style="list-style-type: none"> <li>♦ Update – Metropolitan Area Communications Commission (MACC)</li>   <li>♦ Intergovernmental Agreement with Clean Water Services (CWS) for Sanitary Sewer Master Plan Preparation</li> </ul>	<p>administer this policy?”</p> <p>Right-of-Way Administrator Werner said if the City Council decided to approve a fee, a fee resolution would be needed, so there will be at least a third discussion of this issue.</p> <p>Councilor Woodruff asked that when the staff returns for a workshop discussion to have information about how other Cities are handling this type of situation.</p> <p>Community Development Director Coffee added that Public Works Director Koellermeier has noted there is a related problem in public open space and park areas where adjoining property owners have claimed the park or open space as part of their property. This issue will be brought back to the City Council at the same time. Right-of-Way Administrator Werner said she has talked to Public Works staff and they like the proposed policy.</p> <p>This matter will be scheduled for a future workshop discussion.</p>	
	<p>Right-of-Way Administrator Werner advised that MACC distributed information about an FCC ruling that impacts cable franchising. She said if the City Council has time to review this information or if they have questions, to give her a call. She said the FCC is trying to preempt local governments’ right to locally franchise cable providers, which would have an impact on the funding from franchises.</p>	
	<p>City Engineer Duenas advised staff has been coordinating with CWS for quite awhile regarding an update of the CWS Sanitary Sewer Master Plan. This update is expected to provide a schedule of projects to meet the needs of the City for the next 20 years. Many of the projects listed in the 2000 Sewer Master Plan Update were based on a number of presumptions. After</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>a lot of discussion about the scope of what needs to be done, staff decided that field monitoring is probably the best way to proceed. The monitoring would need to be done over a two-year period because there is a need to get dry and wet weather flow. The sanitary sewer fund will be spent on construction projects that are really needed rather than on projects that may or may not be needed because they were proposed based on estimated flows.</p> <p>The estimated cost of the master plan update is \$151,000: flow monitoring to cost \$35,000 and \$116,000 for the consultant contract. The need for this fiscal year is \$85,000 and \$50,000 was budgeted; therefore, there is a need for additional funding. Next fiscal year, staff will propose a budget of \$70,000 for this project. If the City Council is agreeable, staff will return on February 13 with a consent agenda item asking for Council approval of the Intergovernmental Agreement with CWS. This will be paid out of the sanitary sewer fund.</p> <p>In response to a question from Council President Sherwood, City Engineer Duenas explained the flow monitoring indicates what is actually flowing through the pipes and can also indicate if there is inflow. For example, if there is a storm event and the flow increases dramatically, this indicates there is problem in the system.</p> <p>In response to a question from Councilor Woodruff, City Engineer Duenas advised the Sewer Master Plan update is for the Tigard area and we want to get our own master plan out of this project. It's an opportunity to get the true numbers of what is needed to be done and to move forward confidently based on the numbers to do the projects.</p> <p>Council President Sherwood said she is favorable to be proactive rather than reactive. City Engineer Duenas reiterated that this would allow the City to set up the projects to be done</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>over a 20-year period. The Community Investment Program is set up in five-year increments and this will allow us to program those funds for the next five years. CWS is also doing this with other cities.</p> <p>Councilor Harding said it seems to her that CWS would have to do some of this flow monitoring regardless whether Tigard participates or not. City Engineer Duenas said he did not think that CWS will be doing the monitoring in the detail that the City wants.</p> <p>Council consensus was for staff to present the IGA at the February 13, 2007, City Council meeting on the consent agenda.</p>	
<p>Study Session (cont.) Review Additional Funding Request for Pavement Management Services</p>	<p>City Engineer Duenas reported that staff wants to re-rate the streets to update street-condition reports to develop a new five-year street maintenance plan and reevaluate the street maintenance fee. This reevaluation needs to be done within the next couple of months. A January 18, 2007, memorandum from City Engineer Duenas explains the supplemental funding request and is on file in the City Recorder's office.</p> <p>Council members agreed to proceeding with the Pavement Management Services because this reevaluation was a condition of implementation of the street maintenance fee and will assist in determining how to spend funds wisely. Council members directed that what is being done to reevaluate the street maintenance fee be communicated to citizens.</p> <p>On the Consent Agenda (see Item Nos. 3.4.f. and 3.5) Council will consider a budget amendment and a contract award relating to the street maintenance fee.</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
Executive Session	<p>The Tigard City Council went into Executive Session at 7:02 p.m. to discuss pending litigation under ORS 192.660(2)(h).</p> <p>Executive Session concluded: 7:22 p.m.</p>	
<p>Study Session (cont.)</p> <p>Administrative Items</p>	<ul style="list-style-type: none"> <li>♦ City Council will advise City Manager Prosser of preferred dates for the Grand Opening and Dedication of the Tualatin River Bicycle and Pedestrian Bridge</li> <li>♦ Councilor Buehner advised she will need to get direction from City Council regarding whether to proceed with discussions with the Intergovernmental Water Board to determine the disposition of the Water Building. This was discussed further during Non Agenda (see Item No. 10).</li> <li>♦ There will be a joint meeting with the Tigard-Tualatin School Board on January 29, 6:30 p.m.</li> </ul> <p>Study Session concluded at 7:29 p.m.</p>	
Business Meeting	<p>1.1 Council President Sherwood called the City Council, City Center Development Agency, and the Local Contract Review Board to Order at 7:35 p.m.</p> <p>1.2 Council Present: Council President Sherwood, Councilors Buehner, Harding, and Woodruff.</p> <p>1.3 Pledge of Allegiance</p> <p>1.4 Council Communications &amp; Liaison Reports</p> <p>1.5 Call to Council and Staff for Non-Agenda Items: See Item No. 10 – Discussion of ownership decision of the Water Building to come before the Intergovernmental Water Board.</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
2. Citizen Communications	<p>Tigard Chamber of Commerce President-Elect Meeks updated the Council on Chamber activities. The membership drive that was to have taken place this month was canceled due to inclement weather. The drive was rescheduled to August.</p> <p>Gary Firestone, Attorney with Ramis, Crew, and Corrigan advised he will be leaving the firm to become the City Attorney for the City of Newport, effective February 1, 2007. He expressed his appreciation for the good working relationship with the City Council and members of the Tigard city staff. He also thanked City Attorney Tim Ramis for the opportunity to work with him and the members of his firm. He said he would miss Tigard. Council members wished Mr. Firestone well and told him that he would be missed.</p> <p>John Frewing, 7110 SW Lola Lane, Tigard OR 97223 invited members of staff and the public to a meeting of the Friends of Bull Mountain Trails next Tuesday, 7:30 p.m., in the TVF&amp;R Community Room. One of the topics is to identify more pedestrian trails for Tigard. Councilor Harding thanked Mr. Frewing for his efforts.</p>	
3. Consent Agenda	<p>3.1 Approve Council Minutes for December 12 and December 19, 2006</p> <p>3.2 City Center Development Agency: Appoint City Center Development Agency Budget Committee Members: Mark Haldeman, Rick Parker, Katie Schwab, Jason Snider, Dena Struck, and Cameron James (Alternate)</p> <p>CCDA RESOLUTION NO. 07-01 – A RESOLUTION APPOINTING MARK HALDEMAN, RICK PARKER, KATIE SCHWAB, JASON SNIDER, AND DENA STRUCK TO SERVE AS</p>	<p>*Councilor Buehner advised she would abstain from voting on Consent Agenda 3.1. (Minutes are for meetings prior to Councilor Buehner's service on the City Council.)</p> <p>Motion by Councilor Woodruff, seconded by Councilor Buehner, to approve the Consent Agenda.</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>MEMBERS OF THE BUDGET COMMITTEE, AND APPOINTING CAMERON JAMES TO SERVE AS ALTERNATE MEMBER OF THE BUDGET COMMITTEE</p> <p>3.3 Appoint Planning Commission Members: Jeremy Vermilyea, Tom Anderson, and Margaret Doherty</p> <p>RESOLUTION NO. 07-02 – A RESOLUTION APPOINTING JEREMY VERMILYEA, TOM ANDERSON, AND MARGARET DOHERTY TO THE PLANNING COMMISSION</p> <p>3.4 Local Contract Review Board</p> <ul style="list-style-type: none"> <li>a. Approve ODOT Agreement for Traffic Signal Interconnection Upgrade on Carmen Drive/Boones Ferry Road at Sequoia Parkway</li> <li>b. Award Contract for 72<sup>nd</sup>/Dartmouth Intersection Project Design Services</li> <li>c. Approve the Purchase of a 4 x 4 Backhoe Loader</li> <li>d. Award Contract for a Geographic Information System (GIS) Needs Assessment and Implementation Plan</li> <li>e. Award Contract for Monthly Cityscape Newsletter Printing</li> <li>f. Award Contract for Pavement Management Services</li> </ul> <p>3.5 Approve Budget Amendment #11 to the 2006-07 Budget to Increase Appropriations in the Capital Construction and Transportation Division for Additional Costs Related to Pavement Management Services</p> <p>RESOLUTION NO. 07-03 – A RESOLUTION APPROVING BUDGET AMENDMENT #11 TO THE FY 2006-07 BUDGET TO INCREASE APPROPRIATIONS IN THE CAPITAL</p>	<p>The motion was approved by a unanimous vote of Council present.</p> <p>Council President                              Sherwood     Yes          *Councilor Buehner    Yes          Councilor Harding     Yes          Councilor Woodruff    Yes</p> <p>Councilor Woodruff commented on Agenda Item 3.4b regarding the intersection project at SW 72<sup>nd</sup> and Dartmouth. City Engineer Duenas confirmed that this intersection will now be signalized to improve orderly movement of traffic and enhance the safety of pedestrians and motorists. He suggested that something special be done at this location, a significant entrance into the City and solicit public input on what might be done.</p>



Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>CONSTRUCTION AND TRANSPORTATION DIVISION FOR ADDITIONAL COSTS RELATED TO THE PAVEMENT MANAGEMENT SERVICES</p> <p>3.6 Authorize City Manager to sign a Dedication Deed Transferring Title of Reserve Access Strips to the Public</p> <p>RESOLUTION NO. 07-04 – A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN ON BEHALF OF THE CITY, A DEDICATION DEED TRANSFERRING TITLE OF RESERVE STRIPS TO THE PUBLIC</p>	
<p>4. Oregon Department of Transportation (ODOT) Region 1 Manager Jason Tell</p>	<p>City Engineer Duenas introduced ODOT Region 1 Director Jason Tell. Mr. Tell's report and discussion with the City Council included the following:</p> <ul style="list-style-type: none"> <li>◆ Oregon, for the first time in many years, is receiving more federal dollars for transportation improvements than what the State's taxpayers are contributing. There is recognition of the value of investing in transportation.</li> <li>◆ ODOT will assess transportation needs to present to the State Legislature.</li> <li>◆ Challenges: The Highway Trust Fund is nearly insolvent because: <ul style="list-style-type: none"> <li>○ The gas tax hasn't been increased for a number of years;</li> <li>○ People are buying more fuel-efficient vehicles; and</li> <li>○ Construction costs have increased.</li> </ul> </li> </ul> <p>A committee has been formed to review this situation with the Highway Trust Fund.</p> <ul style="list-style-type: none"> <li>◆ Region 1 receives \$17 million per year for modernization projects, which is not a lot</li> </ul>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>of money when there are so many needs to address. Mr. Tell described efforts to motivate the business community to assist. He stressed the importance of partnerships and leveraging funding packages to maximize tight funding.</p> <ul style="list-style-type: none"> <li>♦ Mr. Tell noted the value of meetings, such as this one, to help local jurisdictions keep their needs to the forefront. He requested the City keep in contact with his assistant, Alan McDonald.</li> <li>♦ Mr. Tell noted the importance of setting priorities with projects ready to go as much as possible so that you can be ready if the legislature decides to move ahead.</li> <li>♦ There was discussion on whether it seems likely if the legislature will pass a statewide gas tax. Mr. Tell said that there appears to be some willingness to consider a revision to the collection of gas tax and for it to keep up with inflation.</li> <li>♦ Councilor Buehner advised of her concerns with communications from ODOT insofar as how the citizens are able to convey concerns about transportation. Also, she noted that 99 percent of the population is not aware that funding for transportation projects is done mostly at a local level. Mr. Tell asked Ms. Buehner to notify him when specific communication problems arise. He said the State funds the majority of the state system improvements; however, the cost of projects has risen so quickly, that purchasing power is down. The state is asking local jurisdictions to find ways to leverage. He agreed communications need to improve with the public and said that for a long time transportation funding has been taken for granted. People need to understand how transportation projects are funded and be asked to weigh-in with their opinion.</li> <li>♦ Councilor Woodruff noted there are questions about the future of Hall Boulevard and the need for a discussion in</li> </ul>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>the future about how joint efforts through a partnership with state are working. Mr. Tell suggested that the city and state staff work together to prepare information on projects and then when he returns to visit with the City Council, there can be a discussion about specifics.</p> <ul style="list-style-type: none"> <li>♦ City Engineer Duenas said ODOT is to be commended for providing additional funding for the Hall/99W improvements when the County realized it had a funding shortfall for the project.</li> </ul>	
<p>5. Tualatin Riverkeepers Presentation – Updated Field Guide</p>	<p>Tualatin Riverkeepers Executive Director Patricia Irons and Watershed Watch Coordinator Brian Wegener presented the City Council with copies of the most recent edition of its field guide <i>Exploring the Tualatin River Basin</i>, a nature and recreation guide prepared by the Tualatin Riverkeepers. The Guide was created by donation of more than 10,000 hours of volunteer-time from many individuals including professional photographers. Council members also received a copy of <i>The Green Heron Herald</i>, the Winter 2007 newsletter, which announced a number of upcoming events. The Riverkeepers website is: <a href="http://www.tualatinriverkeepers.org">www.tualatinriverkeepers.org</a>.</p> <p>The Green Heron Awards dinner is April 14, 2007. Nominations are encouraged. Councilor Buehner referred to the work done by Senior Planner Nachbar and the City Center Advisory Commission for downtown planning efforts. Mr. Wegener said forms will be posted on their website and encouraged nominations. Forms are due February 15.</p> <p>Mr. Wegener said they would like to be present during the grand opening of the Tigard-Tualatin Pedestrian Bridge.</p> <p>Council President Sherwood thanked the Tualatin Riverkeepers for all the work they have done in the community.</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
6. City Vision Process Update	<p>Assistant City Manager Newton and Risk Manager Mills presented the update on citywide vision highlights and the process change to incorporate the visioning effort into the Comprehensive Plan update.</p> <p>An overview and an outline of key accomplishments in the Vision's six target areas were presented to the City Council. A copy of the presentation is on file in the City Recorder's office.</p> <p>All Council members present expressed words of appreciation to Ms. Newton and Ms. Mills for their enthusiasm and continued efforts to make the Visioning project such a success for the last ten years. The work accomplished on the vision will make the updated Comprehensive Plan better.</p> <p>Assistant City Manager Newton recommended that an annual update be maintained in the Comprehensive Plan process.</p>	
7. Council Goal Adoption	<p>City Manager Prosser referred to the draft goals submitted to the City Council for their review. Mayor Dirksen and Councilor Harding had made some suggestions for wording. Council President Sherwood suggested that Mayor Dirksen and Councilor Harding meet to discuss how the final goals should be worded and that the Council adopt the draft subject to their edits.</p>	<p>Motion by Councilor Buehner, seconded by Councilor Woodruff, to approve the 2007 City Council goals subject to edits proposed by Mayor Dirksen and Councilor Harding.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Council President  Sherwood                      Yes  Councilor Buehner        Yes  Councilor Harding        Yes  Councilor Woodruff      Yes</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
<p>8. Council Liaison Appointments</p>	<p>City Manager Prosser introduced this agenda item for which a resolution was proposed to formally adopt and specify roles for City Council liaison appointments to City of Tigard and regional boards, commissions, committees and task forces. City Council had discussed these appointments on December 11, 2006, and January 9, 2007.</p> <p>RESOLUTION NO. 07-05 – A RESOLUTION SPECIFYING CITY COUNCIL LIAISON APPOINTMENTS TO CITY OF TIGARD AND REGIONAL BOARDS, COMMISSIONS, COMMITTEES AND TASK FORCES</p> <p>City Manager Prosser advised this information will be shared with the City boards and committees as well as posted on the City's website.</p>	<p>Motion by Councilor Harding, seconded by Councilor Buehner, to adopt Resolution No. 07-05.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Council President Sherwood Yes Councilor Buehner Yes Councilor Harding Yes Councilor Woodruff Yes</p>
<p>9. Informational Public Hearing – Formation of Sewer Reimbursement District #37 (SW 87<sup>th</sup> Court, Hall Boulevard)</p>	<p>Council President Sherwood opened the public hearing.</p> <p>There were no declarations or challenges regarding the Council proceeding with the hearing.</p> <p>City Engineer Duenas presented the staff report regarding formation of Sanitary Sewer Reimbursement District No. 37. A copy of the presentation outlined by City Engineer Duenas is on file in the City Recorder's office.</p> <p>City Engineer Duenas confirmed that the three owners, who did not attend the neighborhood meeting, have not contacted the City.</p> <p>There was no public testimony.</p>	<p>Motion by Councilor Woodruff, seconded by Councilor Harding, to adopt Resolution No. 07-06.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Council President Sherwood Yes Councilor Buehner Yes Councilor Harding Yes Councilor Woodruff Yes</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>Staff recommended approval of the proposed resolution forming the reimbursement district.</p> <p>In response to a question from Councilor Woodruff, City Engineer Duenas advised that more than 400 laterals (lots) have been connected to the sewer system since the reimbursement district program was started. There were 661 laterals identified at the beginning of the program; therefore, the program is about 2/3 complete.</p> <p>Council President Sherwood closed the public hearing.</p> <p>RESOLUTION NO. 07-06 – A RESOLUTION ESTABLISHING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 37 (SW 87<sup>TH</sup> COURT, HALL BOULEVARD)</p>	
10. Non Agenda Items	<p>Councilor Buehner advised that each representative of the Intergovernmental Water Board (IWB) was asked to check with their City Council/Board members and ask whether a review should be done to determine the disposition of the Tigard Water Building. If the IWB representatives are directed to consider this matter of disposition, then the next steps will be to determine how to calculate property valuation and resolve related methodology issues. City Manager Prosser advised there are a few water staff members located in the building at this time. Consensus of the City Council was for the IWB to consider disposition of the building.</p>	

Adjournment	The meeting adjourned at 9:01 p.m.	<p>Motion by Councilor Woodruff, seconded by Councilor Harding, to adjourn the meeting.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Council President  Sherwood                      Yes  Councilor Buehner        Yes  Councilor Harding        Yes  Councilor Woodruff      Yes</p>
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Attest:

\_\_\_\_\_  
Catherine Wheatley, City Recorder

\_\_\_\_\_  
Mayor, City of Tigard

Date: \_\_\_\_\_

**COUNCIL AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/Agenda Title Establishment of the Fanno Creek Park / Plaza Master Plan Steering Committee

Prepared By: Phil Nachbar Dept Head Approval: TC City Mgr Approval: CP

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**ISSUE BEFORE THE COUNCIL**

Review and approve a resolution establishing the Fanno Creek Park / Plaza Master Plan Steering Committee.

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**STAFF RECOMMENDATION**

Approve the attached resolution establishing the Steering Committee and appointment of terms.

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**KEY FACTS AND INFORMATION SUMMARY**

The development of a master plan for Fanno Creek Park and public plaza in Downtown is one of the key projects within the Downtown work program for FY 07-08, adopted by Council in August 2006. The project will provide a master plan for the park area and a public plaza. The importance of this project is that it defines the location and design of the central public meeting place for Downtown in addition to adjoining park improvements. As such, the composition of the Steering Committee is intended to seek both broad community support and the support of the Downtown business community and local neighborhoods. This project is listed as a "catalyst" project within the Downtown Plan. It is anticipated that the project will take a minimum of six (6) and up to nine (9) months to complete. The term of appointed members will terminate upon completion of the project.

The Fanno Park / Plaza Steering Committee is being set up to provide review and recommendations with regard to the master plan to City Center Development Agency (CCDA).

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**OTHER ALTERNATIVES CONSIDERED**

None.

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**CITY COUNCIL GOALS**

The establishment of this steering committee is in further of the one of top Council goals to implement the Downtown Plan.

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**ATTACHMENT LIST**

Resolution Establishing the Fanno Creek Park / Plaza Master Plan Steering Committee

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**FISCAL NOTES**

No impact.



CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 07-\_\_\_\_\_

A RESOLUTION ESTABLISHING A CITIZEN ADVISORY COMMITTEE TO GUIDE THE PREPARATION OF A MASTER PLAN FOR FANNO CREEK PARK AND A DOWNTOWN PUBLIC PLAZA

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WHEREAS, the City of Tigard has approved the Tigard Downtown Improvement Plan and City Center Urban Renewal Plan, which identify Fanno Creek Park between Hall Blvd. and Main Street, and a public plaza as key catalyst projects for Downtown; and

WHEREAS, the use of Tax Increment Financing was approved by voters in May 2006, providing a long-term financing plan for projects within the City Center Urban Renewal District; and

WHEREAS, Fanno Creek Park and a public plaza in Downtown will be used by the whole community and a Citizen Advisory Committee will help establish broad community support for the design of these public spaces; and

WHEREAS, individuals representing a wide range of community interests are needed to form the committee and provide input into the preparation of the master plan; and

WHEREAS, the committee members were selected through an established process lead by the Mayor.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Fanno Creek Park and Downtown Public Plaza Master Plan Steering Committee is hereby established to guide the preparation of a master plan. Its membership shall consist of those individuals listed on the attached Exhibit "A"

SECTION 2: The mission of the Committee is to:

- (1) Review and comment on draft master plan materials prepared by the project consultant; and
- (2) Guide the master plan to ensure that the proposed master plan meets community needs; and
- (3) Promote public understanding of the proposed master plan.

SECTION 3: The Fanno Creek Park and Downtown Public Plaza Master Plan Steering Committee shall:

- (1) Participate in at least four meetings conducted by the project consultant; and
- (2) Participate in up to three public open house meetings at the completion of project milestones to provide the public with an opportunity to review the progress of the project and offer comments; and
- (3) Consider comments received by the public; and
- (4) Present findings and recommendations to City Council and the City Center Development Agency (CCDA) at appropriate times.

SECTION 4: The term of service for members of the committee shall expire after the completion of the master plan and the presentation to the City Council and CCDA, and the committee itself shall be terminated at that time.

SECTION 5: The Senior Planner for Downtown is assigned as staff liaison to the Committee. Other City staff will be used to support the Committee's activities as deemed necessary throughout the process.

SECTION 6: This resolution is effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2007.

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Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard

## **Exhibit A**

### **Fanno Creek Park and Downtown Public Plaza Master Plan Steering Committee**

Carl Switzer, Chair (City Center Advisory Committee)  
Alice Ellis Gaut (City Center Advisory Committee)  
Mike Freudenthal (Parks Board)  
Trisha Swanson (Parks Board)  
Dan Dolan (Downtown Business / Property Owner)  
Chuck O'Leary (Downtown Business / Property Owner)  
Eugene Butera (Neighborhoods)  
Lisa Olson (At-large)  
Brian Wegener (At-large)  
Mike Swanda (1<sup>st</sup> alternate)  
Meg Schultz (2<sup>nd</sup> alternate)

Agenda Item #  
Meeting Date

3.3  
February 27, 2007

**COUNCIL AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/Agenda Title Re-assignment of City Center Advisory Commission Membership Terms

Prepared By: Phil Nachbar Dept Head Approval: TC City Mgr Approval: CL

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**ISSUE BEFORE THE COUNCIL**

Approve a proposed resolution which re-assigns the terms for City Center Advisory Commission (CCAC) members in accordance with their new by-laws adopted in October 2006.

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**STAFF RECOMMENDATION**

Review and approve the proposed resolution.

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**KEY FACTS AND INFORMATION SUMMARY**

Under Section 3 of the new CCAC by-laws, the City has the responsibility to determine a means of staggering appointments of all current members using three (3) three-year terms, three (3) two-year terms, and three (3) one-year terms. At a previous study session with Council to determine this, Council suggested that Staff see if the CCAC wanted to come up with their own means of staggering their terms. At the January 10, 2007 CCAC meeting, the CCAC resolved the issue by assigning terms in accordance with the Bylaws. The following is the reassignments that were approved by the CCAC, and are incorporated into the attached resolution.

3-Year Appointment: Commissioners Switzer, Lily, and vacant position

2-Year Appointment: Commissioners Barkley, Potthoff, and Ellis Gaut

1-Year Appointment: Commissioners Gallagher, Craghead, and second vacant position

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**OTHER ALTERNATIVES CONSIDERED**

None.

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**CITY COUNCIL GOALS**

The CCAC supports Council's goal of implementing the Downtown Improvement Plan.

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**ATTACHMENT LIST**

Proposed Resolution for Reassignment of CCAC Membership Terms.

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**FISCAL NOTES**

N/A

CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 07-\_\_\_\_\_

A RESOLUTION RE-ASSIGNING CITY CENTER ADVISORY COMMISSION  
MEMBERSHIP TERMS

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WHEREAS, Section 4 of the City Center Advisory Commission (CCAC) by-laws adopted by Council on October 24, 2006 requires that the terms of members be re-assigned to three 3-year terms, three 2-year terms, and three 1-year terms; and

WHEREAS, Council has delegated the re-assignment of terms to the CCAC, and at its January 10, 2007 meeting, the CCAC approved new terms for its members; and

WHEREAS, re-assignment of membership terms will help meet the new composition of the CCAC per Section 2 of the new by-laws.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that: the following terms be re-designated as follows

SECTION 1: 3-year appointments: Commissioners Switzer, Lily, and vacant position;  
2-year appointments: Commissioners Barkley, Potthoff, and Ellis Gaut;  
1-year appointments: Commissioners Gallagher, Craghead, and vacant position.

SECTION 2: In accordance with the Section 4 of CCAC Bylaws, all terms begin January 1 and end December 31.

SECTION 3: This resolution becomes effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2007.

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Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard

Agenda Item #  
Meeting Date

3.4.a  
February 27, 2007

**LOCAL CONTRACT REVIEW BOARD AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/Agenda Title: Award of Contract for Fuel Delivery and Card-lock Services at Both Captive and Foreign Sites

Prepared By: Dennis Koellermeier Dept Head Approval:  City Mgr Approval: 

**ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD**

Shall the Local Contract Review Board award a contract to Bretthauer Oil Company for fuel delivery and card-lock services at both captive and foreign sites?

**STAFF RECOMMENDATION**

Staff recommends that the Local Contract Review Board approve the award of a contract to Bretthauer Oil Company for fuel delivery and card-lock services at the City's captive site as well as foreign sites and authorize staff to take the necessary steps to execute the agreement.

**KEY FACTS AND INFORMATION SUMMARY**

The City's contract for unleaded and diesel fuel expired at the end of 2006. Since that time, the City has been operating under a bridge agreement with a fuel provider while a detailed analysis of the City's fuel options was conducted. Options considered included:

- Continuing with the existing system of fueling at a combination of captive, or City-owned pumps, and foreign, or commercial fueling card-lock stations
- Moving exclusively to either captive or foreign sites
- Participation in a "fleet card" program offered by multiple fueling companies
- Using the City's purchasing card program to purchase fuel at local stations

The analysis showed it was clearly in the City's best interest to retain the current format of fueling at a combination of captive and foreign card-lock stations.

Under Tigard Public Contracting Rule 10.045 the purchase of gasoline and diesel fuel is exempt from competitive bidding. Staff did solicit quotes where possible and has documented all efforts in accordance with the terms detailed under Public Contracting Rule 10.045. When all options and quotes were reviewed, including a detailed review of both hard and soft dollar estimates, the Bretthauer Oil Company was found to be the best fuel provider for the City.

Bretthauer Oil Company will deliver both unleaded and diesel fuels to the City's captive site as well as offer the same fuels at foreign sites via multiple Pacific Pride commercial fueling stations. This includes the only commercial fuel station in Tigard. The cost for the fuel will be charged at a small markup over the wholesale price for the day of purchase; the captive site markup will be 6½ cents and the foreign site markup will be 5 cents.

**OTHER ALTERNATIVES CONSIDERED**

The Local Contract Review Board could choose not to award the contract to Bretthauer Oil Company and could direct staff on how to proceed regarding the City's fuel provider.

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**CITY COUNCIL GOALS**

None

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**ATTACHMENT LIST**

None

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**FISCAL NOTES**

The estimated annual cost of this contract is \$225,000, with expenditures spread over multiple funds and divisions. Contract renewal options would allow the City to extend the contract for up to five years.

Agenda Item #  
Meeting Date

3.4.6  
February 27, 2007

**LOCAL CONTRACT REVIEW BOARD AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/Agenda Title: Award of Contract for the Construction of 87<sup>th</sup> Court & Hall Blvd Sanitary Sewer Extension (Sewer Reimbursement District No. 37)

Prepared By: Vannie Nguyen *in* Dept Head Approval: TC/jll City Mgr Approval: CP

**ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD**

Shall the Local Contract Review Board, by motion, approve a contract award for the construction of 87<sup>th</sup> Court & Hall Blvd Sanitary Sewer Extension (Sewer Reimbursement District No. 37)?

**STAFF RECOMMENDATION**

Staff recommends that the Local Contract Review Board, by motion, approve a contract award to **Emery & Sons Construction** in the amount of **\$295,557.00** and authorize an additional amount of \$29,500 to be reserved for contingencies and applied as needed as the project goes through construction. The total amount committed to the project is therefore **\$325,057.00**.

**KEY FACTS AND INFORMATION SUMMARY**

- On January 23, 2007, Council approved the formation of Reimbursement District No. 37.
- The project was advertised for bids on January 30, 2007 in the Daily Journal of Commerce, and February 1, 2007 in The Times. A project addendum was issued February 8, 2007 to provide bidders with an ODOT permit for work to be performed on Hall Blvd. The bid opening was conducted at 2:15 PM on February 13, 2007 and the bid results are:

Emery & Sons Construction	Stayton, OR	\$295,557.00
Dunn Construction	Gresham, OR	\$306,673.60
NW Kodiak Construction	Sherwood, OR	\$310,542.51
Kerr Contractors	Woodburn, OR	\$383,607.00
<b>Engineer's Estimate Range</b>		<b>\$228,000 to \$278,000</b>

- The project includes Bid Schedule B for construction of approximately 680 feet of 8-inch sanitary sewer main and 210 feet of 4-inch service lateral to provide sewer service to six (6) lots along 87<sup>th</sup> Court and Hall Blvd. Costs associated with Bid Schedule B will be reimbursed by the district. The high estimate for Bid Schedule B is **\$135,500**. The bid submitted by Emery & Sons Construction for completion of the bid schedule is **\$155,518.00**. This bid is approximately \$20,000 higher than the high Engineer's estimate.
- Also included in the project is Bid Schedule A for construction of 230 feet of a downstream sewer line and other sewer facilities to serve the McDonald Street Sanitary Sewer District (District No. 1). An existing dry sewer line was constructed for the district in 1991 as part of the McDonald Street Improvements project in order to avoid the need to dig up the street in the future. It was anticipated that an outfall for the district would be constructed as developments occur or as the broader neighborhood requests sanitary sewer



service. District No. 1 was formed on January 21, 1992 and the reimbursement requirement ended on January 21, 2002. The outfall has not been constructed for the district.

- Had the outfall for District No. 1 been completed, the 87<sup>th</sup> Court and Hall Blvd Sanitary Sewer Reimbursement District (this project) would not have to install the downstream sewer line to serve the proposed district. Therefore, costs associated with Bid Schedule A are considered City costs and are not included in the District Reimbursement costs. The high estimate for Bid Schedule A is **\$142,500**. The bid submitted by Emery & Sons Construction for completion of the bid schedule is **\$140,039**. This bid is approximately \$2,500 less than the high Engineer's estimate.
- As a result of the high and low bids submitted for both schedules (\$20,000 higher in one bid and \$2,500 lower in the other), the total bid submitted by Emery & Sons Construction is approximately \$17,500 or 6.3% higher than the estimated amount. Staff has reviewed all the bids and has determined that Emery & Sons' bid is reasonable and recommends approval of the contract award to this lowest bidder.
- Upon Council approval of the contract and after a Notice to Proceed has been issued, the contractor will have 50 days to complete the construction of the project. The construction is anticipated to start in mid-March and is expected to be completed by mid-May of this year.

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#### **OTHER ALTERNATIVES CONSIDERED**

None

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#### **COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT**

The project is part of the Citywide Sewer Extension Program established by City Council to provide sewer service to developed but unserved residential areas in the City. It meets the Tigard Beyond Tomorrow Growth & Growth Management goal of "Growth will be managed to protect the character and livability of established areas, protect the natural environment and provide open space throughout the community." Sewer service enhances the environment and protects the health of the residents by providing for the closure of septic systems 40 to 50 years old.

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#### **ATTACHMENT LIST**

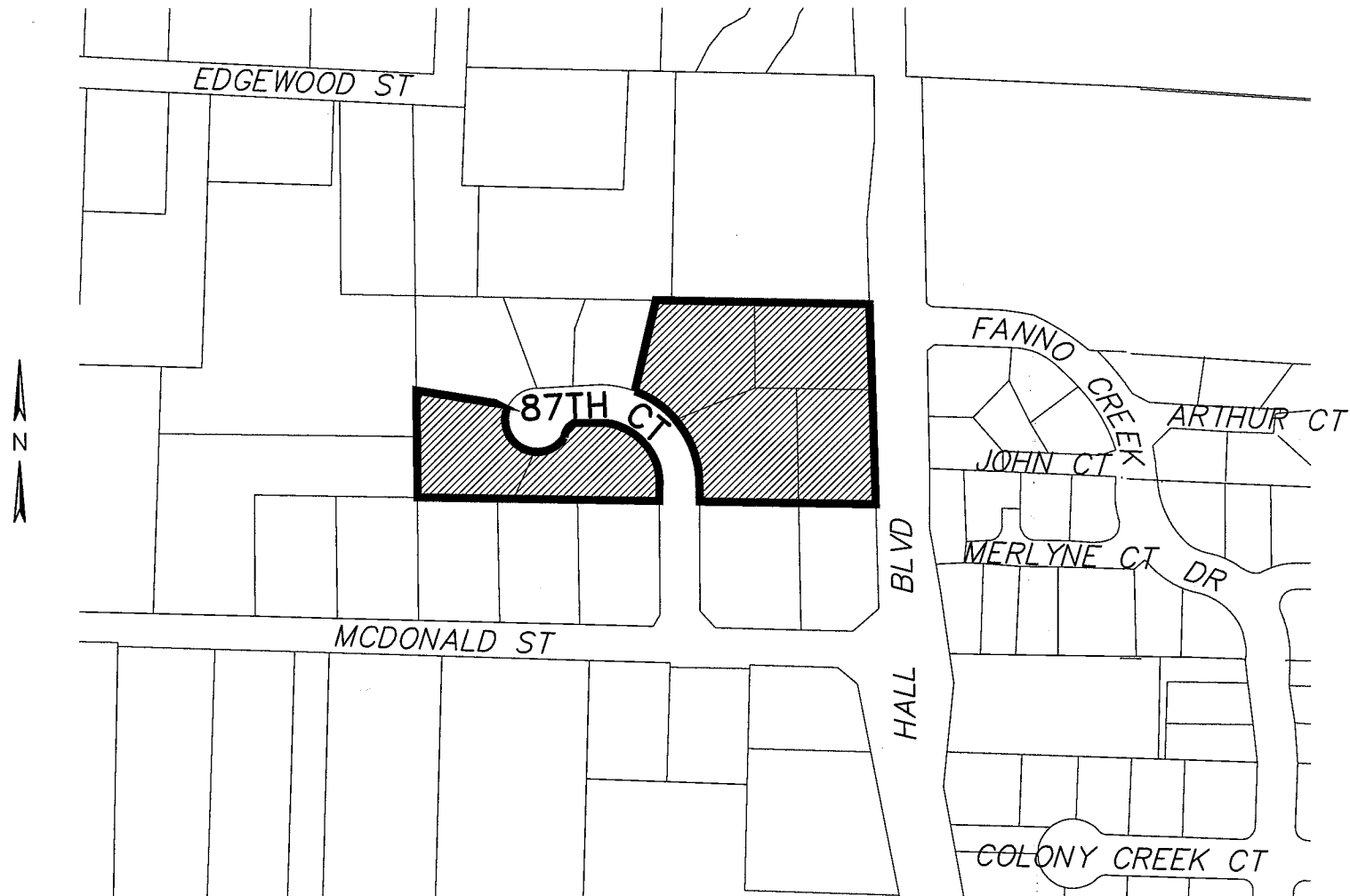
Project location map

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#### **FISCAL NOTES**

The amount of \$2,000,000 is available in the FY 2006-07 Citywide Sewer Extension Program for this and other sewer extension projects. The approximate remaining fund balance of \$1,850,000 is sufficient to award a contract of \$295,557.00 to Emery & Sons Construction and to reserve a contingency amount of \$29,500 for the project.

87TH AVENUE  
FY 2006-07 SANITARY SEWER EXTENSION PROGRAM  
REIMBURSEMENT DISTRICT NO. 37  
A PORTION OF THE SW 1/4 SECTION 2 T2S R1W W.M.



VICINITY MAP  
NTS

Agenda Item #

3.4.c.

Meeting Date

February 27, 2007

## LOCAL CONTRACT REVIEW BOARD AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title: Award of Contract for the Construction of Hill View Street & 102<sup>nd</sup> Avenue Sanitary Sewer Extension (Sewer Reimbursement District No. 39)

Prepared By: Vannie Nguyen

Dept Head Approval:

TC/jll

City Mgr Approval:

cl

### ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Shall the Local Contract Review Board, by motion, approve a contract award for the construction of Hill View Street & 87<sup>th</sup> Avenue Sanitary Sewer Extension (Sewer Reimbursement District No. 39)?

### STAFF RECOMMENDATION

Staff recommends that the Local Contract Review Board, by motion, approve a contract award to **NW Kodiak Construction** in the amount of **\$125,897.80** and authorize an additional amount of \$12,500 to be reserved for contingencies and applied as needed as the project goes through construction. The total amount committed to the project is therefore **\$138,397.80**.

### KEY FACTS AND INFORMATION SUMMARY

- On October 10, 2006, Council approved the formation of Reimbursement District No. 39.
- The project was advertised for bids on January 30, 2007 in the Daily Journal of Commerce, and February 1, 2007 in The Times. No project addenda were issued. The bid opening was conducted at 2:00 PM on February 13, 2007 and the bid results are:

Cipriano & Son Construction	Boring, OR	\$115,340.70*
NW Kodiak Construction	Sherwood, OR	\$125,897.80
Kerr Contractors	Woodburn, OR	\$157,581.50
Dunn Construction	Gresham, OR	\$158,757.00
CivilWorks NW	Vancouver, WA	\$160,126.00
Emery & Sons Construction	Stayton, OR	\$177,341.00
CR Woods Trucking	Sherwood, OR	\$199,209.70
Paul Lambson Contracting	North Bonneville, WA	\$363,009.28
<b>Engineer's Estimate Range</b>		<b>\$161,000 to \$197,000</b>

\* Non-responsive bid

- The project includes construction of approximately 700 feet of 8-inch sanitary sewer main and 200 feet of 4-inch service lateral to provide sewer service to seven (7) lots along Hill View Street and 102<sup>nd</sup> Avenue north of McDonald Street and east of the Highway 99W/McDonald Street Intersection.
- The apparent low bid submitted by Cipriano & Son Construction is approximately \$46,000 or 28% lower than the low estimate of \$161,000. After the bid opening, the contractor verbally requested withdrawal of

his bid due to an oversight of a major bid item in his bid proposal. The contractor met with staff on February 16, 2007 and submitted his request in writing for withdrawal of the bid. Although soil samples were included in the bid documents depicting the existing soil conditions to bidders, the contractor stated that he had significantly underestimated the "Trench excavation & backfill" item by not including any provisions for dewatering, which will be required because of the high water tables. He stated that inclusion of an amount for the dewatering would have increased his bid beyond that of the next lowest bidder. He further stated that he cannot perform the job with the bid amount submitted. Because of the mistake admitted by the contractor both verbally and in writing, staff has determined that the bid submitted by Cipriano & Son Construction is non-responsive and should be rejected.

- The next lowest bid submitted by NW Kodiak Construction is in the amount of \$125,897.80. This bid is approximately \$35,000 or 21.8 % lower than the low estimate of \$161,000. Staff reviewed each item proposed by the contractor to ensure completeness and correctness of the bid. The contractor also expressed his interest in performing the work and assured staff that the project will be fully completed within the indicated timeframe and the bid amount. Staff therefore recommends approval of the contract award to NW Kodiak Construction.
- Upon Council approval of the contract and after a Notice to Proceed has been issued, the contractor will have 50 days to complete the construction of the project. The construction is anticipated to start in mid-March and is expected to be completed by mid-May of this year.

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#### **OTHER ALTERNATIVES CONSIDERED**

None

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#### **COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT**

The project is part of the Citywide Sewer Extension Program established by City Council to provide sewer service to developed but unserved residential areas in the City. It meets the Tigard Beyond Tomorrow Growth & Growth Management goal of "Growth will be managed to protect the character and livability of established areas, protect the natural environment and provide open space throughout the community." Sewer service enhances the environment and protects the health of the residents by providing for the closure of septic systems 40 to 50 years old.

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#### **ATTACHMENT LIST**

Project location map

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#### **FISCAL NOTES**

The amount of \$2,000,000 is available in the FY 2006-07 Citywide Sewer Extension Program for this and other sewer extension projects. The approximate remaining fund balance of \$1,850,000 is sufficient to award a contract of \$125,897.80 to NW Kodiak Construction and to reserve a contingency amount of \$12,500 for the project.

HILL VIEW STREET & 102ND AVENUE  
FY 2006-07 SANITARY SEWER EXTENSION PROGRAM  
REIMBURSEMENT DISTRICT NO. 39  
A PORTION OF THE SW 1/4 SECTION 2 T2S R1W W.M.



VICINITY MAP  
NTS

Agenda Item #  
Meeting Date

4  
February 27, 2007

**COUNCIL AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/ Agenda Title Legislative Briefing by Senator Burdick & Representative Galizio

Prepared By: Joanne Bengtson  Dept Head Approval: CP City Mgr Approval: CP

**ISSUE BEFORE THE COUNCIL**

Council and legislative representatives will discuss issues affecting the City of Tigard and State Senator Ginny Burdick and State Representative Larry Galizio will provide an update on the local issues before the Legislature at this time.

**STAFF RECOMMENDATION**

Identify issues of interest or concern to Senator Burdick and State Representative Galizio.

**KEY FACTS AND INFORMATION SUMMARY**

Senator Burdick and Representative Galizio were contacted and agreed to meet with the City Council to provide an update on the 2007 Legislative Session.

**OTHER ALTERNATIVES CONSIDERED**

N/A.

**CITY COUNCIL GOALS**

**Council Goal # 5:** Increase Tigard's involvement with Washington County, Metro, State, ODOT, TriMet and Federal government.

**Tigard Beyond Tomorrow** - Community Character and Quality of Life – Communication Goal – Citizen involvement opportunities will be maximized by providing educational programs on process, assuring accessibility to information in a variety of formats, providing opportunities for input on community issues and establishing and maintaining two-way communication.

**ATTACHMENT LIST**

- 1- City of Tigard Legislative Priorities
- 2- Letter to Senator Burdick & Representative Galizio dated 2-6-07

**FISCAL NOTES**

N/A

## City of Tigard Legislative Priorities



### Annexation

SB 122 required agreements to define service providers for urban areas. If cities are designated as the ultimate service providers for urban unincorporated areas, public policy needs to support that goal.

The legislature has dramatically limited the ability of cities to annex those areas. Having a variety of annexation methods available allows cities and residents of those areas maximum flexibility in the timing and circumstances to annex areas and provide urban services.

#### *Pending Bills:*

##### **HB 2050 Island Annexation Limited to Provision of Services**

**Oppose**

Modifies requirements and procedure for city to annex territory surrounded by city. Requires finding of clear and convincing evidence by city to use island annexation, limited to properties which require essential services. Requires 10-year tax phase-in.  
(By the House Interim Committee on Land Use)

*If the reason for annexation is to provide services that property will benefit from, why not require property owners to pay their share?*

### Measure 37

The City of Tigard has received nine (9) Measure 37 claims. Some of the claimants have filed merely to protect their rights. The City of Tigard supports suspending the Measure for a time certain and referring changes to the voters.

*Pending Bills:* **None identified:**

### Transportation Funding:

The Tigard City Council recently approved a 3¢ local gas tax to fund improvements to the Greenburg Rd-Main St./Hwy 99W intersection. The tax would be reduced if state and/or county taxes increase. Funding transportation improvements continues to be a challenge for local governments. The City of Tigard supports increasing the state gas tax and/or vehicle registration fees if the funds are allocated for transportation system improvements.

*Pending Bills:* **None identified:**

### System Development Charges: (SDC's for Schools)

The need for new school facilities is directly tied to population growth. It is appropriate to collect SDC's for schools in the same manner collected for parks, streets, sanitary sewer and water. Tigard supports the identification of schools as an essential service and SDC's for schools but not if limits are imposed on existing SDC's.

#### *Pending Bills:*

##### **SB 366 Impact Fees: Schools:**

Reviewing with School District

Authorizes school districts to establish an impact fee on new lots or parcels and caps the fee at \$6,500/lot or parcel.

Requires county recording officers to administer the collection

of the fee, and authorizes the county to assess a charge of up to one percent to cover administrative costs.

(By Senator Schrader and Representative Tomei)

**SB 45 Parks/Schools System Development Charges:**

Authorizes a schools system development charge (SDC) as a component of a parks and recreation SDC. Caps the level of parks/recreation/schools SDCs at an unspecified amount. Requires that school facilities funded with SDC fees be adjacent to a park or recreation facility and be made available for public use. (By the Senate Comm. on Educational Excellence)

**Oppose-** only applies to school sites adjacent to parks or recreation facilities. Limits ability of schools to collect toward funding full cost of growth.

**Collective Bargaining:**

The City opposes legislation that modifies the definition of employment relations; public safety supervisor; and last best offer arbitration award criteria because it would limit the city's ability to manage public safety work forces by subjecting service levels and personnel to collective bargaining.

*Pending Bills:*

**SB 313 Public Safety Staffing**

Modifies definition of "employment relations" to include certain staffing levels and safety issues for certain employees who are prohibited from striking. (By OR State Firefighters Council)

**Oppose**

**SB 400 Staffing Levels for Bargaining Units Prohibited from Striking:**

Modifies definition of "employment relations" to include certain staffing levels and safety issues for certain employees who are prohibited from striking. (By Senators Brown and Prozanski)

**Oppose**

**SB 401 Modifies Definition of Public Safety Supervisor**

Modifies definition of "supervisory employee" for purposes of public employee collective bargaining law. A public safety officer who has no authority to impose economic discipline on subordinate employees may not be considered to be supervisory. (By Sen. Brown)

**Oppose**

**SB 402 Amends Last Best Offer Arbitration Award Criteria:**

Modifies criteria used by arbitrators in public collective bargaining. (By Sen. Brown)

**Oppose**

**HB 2404 Public Safety Staffing:**

Modifies definition of "employment relations" to include certain staffing levels and safety issues for certain employees who are prohibited from striking. (By Rep. Schaufler)

**Oppose**



February 6, 2007

<Letterhead>

Senator Ginny Burdick  
900 Court St. NE., S-317  
Salem, OR 97301

*(This same letter was sent to Rep. Galizio)*  
Representative Larry Galizio  
900 Court St NE, H-390  
Salem, OR 97301

Dear Ginny,

Dear Larry,

Thank you for taking the time to meet with us last week. We recognize how valuable your time is, so we are especially appreciative.

As we indicated, we hope to make regular visits to Salem over this legislative session, and plan on improving our communications with you so that you are aware of issues of concern to Tigard. By the same token, we truly hope that you will call on us as you need help on legislative issues.

As we discussed, one of Tigard's major concerns are the public safety collective bargaining bills that have been introduced this session (SB 313, SB 400, SB 401, SB 402, and HB 2404). We recognize that labor organizations are urging your support of this legislation, but we want to provide you with some additional thoughts from the city's perspective.

As we discussed this issue on the way home, we found ourselves stumped by a fundamental question: What is the problem that we are trying to solve? Safety of our police officers and other City employees is a primary concern of the City. We have a remarkable safety record, and consistently win awards from the League of Oregon Cities for our excellent safety record. In addition, we have not heard of other major public safety issues from other jurisdictions. Given this excellent record statewide, is legislation as proposed in SB 400 and HB 2404 really required to address this issue?

If there is a problem with officer and firefighter safety in Oregon, is a change to collective bargaining laws really the best solution? Officer and firefighter safety issues often rest on technical evaluations (for example, performance characteristics of one manufacturer's Kevlar vest vs. another manufacturer's vest.) As you know, public safety unions are prohibited from striking and collective bargaining impasses are referred to independent arbitrators. These arbitrators are skilled at employment law issues, but they know nothing about officer safety. If there is a problem with the safety of Oregon public safety officers, wouldn't it be better to have these issues settled by a trained, independent office or board rather than labor arbitrators who cannot weigh the merits of technical safety issues? Would a better solution regarding safety issues be to assign responsibility to an independent board such as DPSST or the State Fire Marshall to set and enforce standards that all jurisdictions would have to meet?

One of Tigard's concerns about SB 400 and HB 2404 is that they would require the City to negotiate staffing levels with our union. That is clearly not an appropriate role for collective

bargaining. Decisions concerning staffing levels should and must remain with local elected officials, not the collective bargaining table. Citizens of our communities, through their local elected officials, make the decisions about the level and quality of all public services they want and need. It is up to the citizens to make the ultimate decision regarding the level of policing and other services that they want, not unions and management. Once the community has made that decision, it is up to management to make sure that the level of service desired is provided in a safe and effective manner.

SB 401 changes the definition of "supervisory employee" to exclude first line supervisors (in Tigard's case, sergeants.) It does this by restricting "supervisory employees" to include only those who can impose economic discipline. This is unworkable. First line supervisors, such as sergeants have direct responsibility for managing employees and ensuring that the terms of all personnel policies and union contracts are enforced. Management imposes economic sanctions (suspension, demotion, or termination) for performance violations only in extreme cases. Because of that, all levels of management, up to and including the City Manager review and discuss these sanctions before they are imposed. No supervisor has the authority to impose these sanctions without the express approval of the Chief of Police, and often the City Manager. SB 401 would change the system so that sergeants, lieutenants, captains, and even the police chief become union members while simultaneously being held responsible for enforcing the union contract. This would create an unworkable situation.

Finally, SB 402 removes the number one priority that existing law places on the interest and welfare of the public in collective bargaining arbitration. How can that not be the first priority of any decision of government? We are public servants. We serve the public. The interest and welfare of the public always has to be our primary consideration. Once that changes, we are no longer here to serve the public, but our own self-interest.

We apologize for waxing on too long, but these bills are of vital interest to our citizens. Please let us know if we can provide you with any other information.

Once again, thank you for meeting with us last week. We look forward to your visits with the Tigard City Council, and our future visits with you in Salem.

Sincerely,

Craig Prosser  
City Manager

Liz Newton  
Assistant City Manager

cc: Mayor Craig Dirksen  
Tigard City Council  
League of Oregon Cities

Agenda Item #  
Meeting Date

5  
February 27, 2007

**COUNCIL AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/Agenda Title Metro Briefing by Councilor Carl Hosticka

Prepared By: Joanne Bengtson JB Dept Head Approval: CP City Mgr Approval: CP

**ISSUE BEFORE THE COUNCIL**

Council and Tigard's Metro representative will discuss issues affecting the City of Tigard. Metro Councilor Carl Hosticka will provide an update on the local issues before Metro at this time.

**STAFF RECOMMENDATION**

Identify issues of interest or concern to Councilor Hosticka.

**KEY FACTS AND INFORMATION SUMMARY**

Metro Councilor Carl Hosticka was contacted and agreed to meet with the City Council to provide an update on issues before Metro Council.

**OTHER ALTERNATIVES CONSIDERED**

N/A.

**CITY COUNCIL GOALS**

**Council Goal # 5:** Increase Tigard's involvement with Washington County, Metro, State, ODOT, TriMet and Federal government.

**Tigard Beyond Tomorrow** - Community Character and Quality of Life - Communication Goal - Citizen involvement opportunities will be maximized by providing educational programs on process, assuring accessibility to information in a variety of formats, providing opportunities for input on community issues and establishing and maintaining two-way communication.

**ATTACHMENT LIST**

N/A.

**FISCAL NOTES**

N/A

Agenda Item #  
Meeting Date

6  
February 27, 2007

**COUNCIL AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/Agenda Title Consider Naming the Tualatin River Bicycle and Pedestrian Bridge as the "Ki-a-kuts Bridge" in honor of the Tualatin Native American Headman, Ki-a-kuts

Prepared By: Dennis Koellermeier Dept Head Okay DK City Mgr Okay CP

**ISSUE BEFORE THE COUNCIL AND KEY FACTS**

Shall City Council approve a resolution naming the Tualatin River Bicycle and Pedestrian Bridge as the "Ki-a-kuts Bridge" in honor of Tualatin Native American Headman, Ki-a-kuts?

**STAFF RECOMMENDATION**

Approve the resolution naming the Tualatin River Bicycle and Pedestrian Bridge as the "Ki-a-kuts Bridge."

**KEY FACTS AND INFORMATION SUMMARY**

- The Tigard and Tualatin historical societies are urging the elected officials of Tualatin, Tigard, Durham, and Clean Water Services to name the bridge "Ki-a-kuts Bridge." Ki-a-kuts:
  - Was the last headman for the Tualatin (Atfalati) Native Americans.
  - Signed treaties, at Champoege and Dayton, which turned over the Atfalati's land to the American government.
  - Accepted the government's decree to move to the Grand Ronde Reserve in January of 1855.
- Tigard's partners on the bridge project, namely the Cities of Durham and Tualatin as well as Clean Water Services, are considering similar resolutions and staff expects they will support the Ki-a-kuts Bridge designation.
- If the name is approved by the partners, a plaque detailing the origin of the bridge's name will be installed near the structure.
- A grand opening and dedication ceremony will be held from 11 a.m. to noon on Saturday, April 28.
- In accordance with Resolution No. 99-37, the Council has the authority to name City facilities.

**OTHER ALTERNATIVES CONSIDERED**

The Council could choose not to name the Tualatin River Bicycle and Pedestrian Bridge as the "Ki-a-kuts Bridge."

**COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT**

Not Applicable.

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#### ATTACHMENT LIST

1. Resolution
2. Resolution No. 99-37 with Exhibit A
3. October 23, 2006 Letter from Tigard Area Historical & Preservation Association

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#### FISCAL NOTES

If the Ki-a-kuts Bridge designation is approved, the four project partners would share in the cost of the plaque which is estimated to be \$1,500.

CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 07-\_\_\_\_\_

A RESOLUTION NAMING THE TUALATIN RIVER BICYCLE AND PEDESTRIAN BRIDGE AS THE "KI-A-KUTS BRIDGE" IN HONOR OF THE TUALATIN NATIVE AMERICAN HEADMAN, KI-A-KUTS

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WHEREAS, the actions of Ki-a-kuts, headman of the Tualatin (Atfalati) Native Americans, were of great historical importance to the region: and

WHEREAS, Ki-a-kuts signed treaties, at Champoege and Dayton, which turned over the Atfalati's land to the American government; and

WHEREAS, Ki-a-kuts accepted the government's decree to move to the Grand Ronde Reserve in January of 1855; and

WHEREAS, the Tigard and Tualatin historical societies are urging the elected officials of Tualatin, Tigard, Durham, and Clean Water Services to name the bridge "Ki-a-kuts Bridge" in honor of Ki-a-kuts; and

WHEREAS, in accordance with Resolution No. 99-37, the Council has the authority to name City facilities.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Tualatin River Bicycle and Pedestrian Bridge will be named the "Ki-a-kuts Bridge" in honor of the Tualatin Native American headman, Ki-a-kuts.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2007.

\_\_\_\_\_  
Mayor - City of Tigard

ATTEST:

\_\_\_\_\_  
City Recorder - City of Tigard

CITY OF TIGARD, OREGON

RESOLUTION NO. 99-37 -

A RESOLUTION ESTABLISHING A POLICY OF THE CITY COUNCIL ON PLACING MEMORIALS IN CITY PARKS.

WHEREAS, the Tigard City Council desires to have a policy for designating memorials within City park facilities, City-owned properties and with the naming of building and park properties; and

WHEREAS, the City Council recognizes that over the past several years, various park lands have been acquired by the City of Tigard and various facilities have been built at City parks and properties which could appropriately be named in memory of individuals who have provided service to the community; and

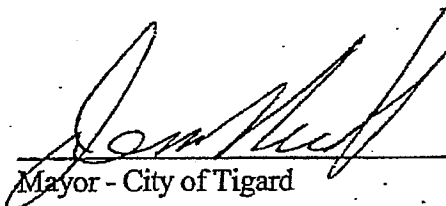
WHEREAS, in the past the City has named properties or facilities in memory of individuals without the benefit of an established City policy; and

WHEREAS, the Council wishes to have a formal policy to apply for official naming of City parks, facilities and features within parks.

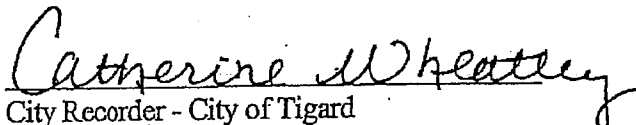
NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The City Council hereby adopts the Memorial Policy described in Exhibit "A" attached hereto.

PASSED: This 8<sup>th</sup> day of June 1999.

  
Mayor - City of Tigard

ATTEST:

  
City Recorder - City of Tigard

i:\adm\cathy\council\resolution memorial policy.dot

## **EXHIBIT "A"**

### **TIGARD MEMORIAL POLICY FOR NAMING CITY PARK FACILITIES, DISTINCT ELEMENTS WITHIN CITY-OWNED PROPERTIES, AND CITY BUILDINGS**

#### **PURPOSE:**

To outline the policy, criteria and process for designating memorials within City park facilities, distinct elements within City-owned properties and naming of buildings and park properties.

#### **BACKGROUND:**

As the City adds parks, open spaces and public facilities by acquisition and donation, the City has found that there is a need for a process to honor individuals or groups by naming City parks, distinct elements within City-owned properties or City buildings and to place memorials to advise the public of the recognition. In addition, the City has been the recipient of bequests which have required that the City recognize the financial contributions by memorializing the gift in some way. Finally, in the past, the City has accepted as a term of purchase of park land a requirement that the City acquired property be developed into a park with a specified park name.



In order that the City Council and staff have guidelines to follow when considering requests that memorials be placed within City park facilities or that City parks or buildings be named after individuals, a policy should be in place.

**POLICY:**

Land, facilities and features within property owned by the City of Tigard will be named through an administrative process in accordance with established criteria that emphasize community identity and service to the community.

Criteria for naming City park facilities, distinct elements within City-owned properties, and City buildings:

1. Memorials within City park facilities – Memorials included within this category are memorials which would be placed on or near basic park amenities, such as benches, picnic tables, trees, shrubs and plaques. If the memorial meets park standards for construction and materials, the Parks Division will assume maintenance responsibility for the useful life of the memorial. Replacement of the memorial shall be at the discretion of the Parks Division staff. Interested parties must submit a written request to the Parks Division regarding the type of memorial, proposal occasion and significance of the memorial.

Parties interested in placing memorials shall be financially responsible for the purchase of the memorial. An extensive review process is not necessary for these types of memorials. These requests shall be handled administratively by the Parks Division to ensure that City standards are met. The Parks Division has the right to adjust the location of the proposed memorial. The Parks Division shall notify the City Council of any actions taken to accept and place new memorials within City parks.

The standards that the Parks Division will follow in regard to park memorials are:

- a) Benches – benches must be made of wood, contoured or flat-styled pedestal, outdoor benches unless an alternative material is approved by the Parks Division upon a finding that there are circumstances that exist that make it appropriate to use the alternative material. Any bench to be contributed as a memorial and to be placed within City park facilities shall be purchased through a Parks Division approved manufacturer. A brass plaque may be attached to the bench but shall be no larger than 2 ½ x 6 inches in size. Prior to purchasing any bench for display in City parks, an interested party must contact City staff and review the example of approved benches maintained by the City staff.

b) Trees – trees planted at City facilities as memorials must be at least 2 inches caliper, native to the area and fit into the existing landscape scheme of the park area or fit into the adopted plan for tree planting in that area.

c) Plaques – plaques may be placed in conjunction with a shrub or tree which are donated to the City as a memorial. Plaques shall not be placed as stand alone features. Plaques must be made of bronze and be no larger than 8 ½ x 11 inches in size. Plaques must be set in concrete, aggregate rock, or a boulder. City staff shall review the design of plaque and setting. Examples of the type of plaques approved by the City shall be made available by Parks staff.

2. Distinct elements within City-owned parks – Memorials can be placed at distinct elements of City-owned properties, such as shelters, sports fields, gardens, wetlands, tennis courts, rooms, fountains, ponds, paths, art, etc. Individuals interested in having a distinct element named in honor of an individual are required to submit a written request to the Tigard City Council regarding the particular type of amenity in which they are interested in sponsoring. Applications shall be made through the Parks Division.

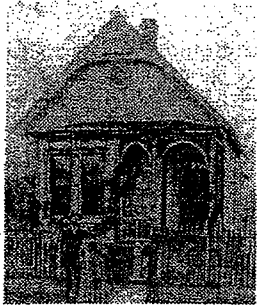
Requests for such amenities may be made to honor an individual who has passed away or as an honorarium for someone who is living and has made a contribution to the City, either financially or through civic duty. Review of

such requests shall be made by the City Council. Council approval is needed. Guidelines regarding signage shall be adopted by Council based on recommendations made by the Parks Division.

The standards that the Parks Division will follow in regard to signage will be kept on record at the Public Works office. Examples of suitable signage will be available for public viewing.

3. Naming of buildings and park properties – City buildings and park properties may be named to honor individuals or groups. Interested parties shall submit a written request to the Tigard City Council regarding the property or building which they are interested in having Council name in honor of an individual or group. In addition, the City Council on its own motion, may consider naming a building or park. This type of memorial requires extensive review and Council approval in the form of a resolution. City staff will deal with guidelines for Council consideration.

The standards that the Parks Division will follow in regard to signage will be kept on record at the Public Works office. Examples of suitable signage will be available for public viewing.



*John Tigard House  
ca. 1880*

*Tigard Area Historical & Preservation Association (TAHPA)*

*PO Box 230402 ♦ Tigard, Oregon 97281-0402 ♦ 503-639-2857*

RECEIVED C.O.T.  
OCT 24 2006  
Administration

October 23, 2006

Tigard City Council  
13125 SW Hall Blvd.  
Tigard, Oregon 97223

Re: Naming the pedestrian bridge

For centuries the Tualatin (Atfalati) native people traveled up and down the Tualatin River and throughout the Tualatin valley in search of sustenance. There has been much evidence of their summer camps found in Tualatin, Durham and Tigard.

As the new pedestrian bridge across the Tualatin River nears completion, we are requesting that you consider naming the bridge 'Ki-a-kuts'.

Ki-a-kuts was the last headman and spokesman of the Tualatin (Atfalati) Indians and it was he who signed the treaties, both at Champoege and again in Dayton, ceding the Atfalati's land to the American government. Ki-a-kuts was an honest good man, who did not want to give up his people's way of life, and pled that the Atfalati be allowed to stay near Wapato Lake, where camas and wapato, the mainstay of their diet, grew abundantly. Finally, in January of 1855, he accepted the government's decree that the band remove to the Grand Ronde Reserve, where he died.

The board of the Tigard Historical Association join the Tualatin Historical Society in urging you to consider naming the bridge for Ki-a-kuts, the great Atfalati headman.

Sincerely,

Dian Ross, President

Agenda Item #  
Meeting Date

7  
February 27, 2007

**COUNCIL AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/Agenda Title Review City Encroachment Permit Policy

Prepared By: Nancy Werner Dept Head Approval:  City Mgr Approval: 

**ISSUE BEFORE THE COUNCIL**

Review City policy for permitting encroachments into the rights-of-way, easements and public property.

**STAFF RECOMMENDATION**

Provide direction on a policy regarding structures that encroach into the rights-of-way, utility easements or other public property.

**KEY FACTS AND INFORMATION SUMMARY**

Chapter 15.16 of the Tigard Municipal Code prohibits, with some exceptions, the placement of any structures or vegetation in unimproved right-of-way, easements or other public property without a revocable permit from the City. Staff occasionally finds fences, retaining walls or other encroachments that have been built without the proper permit.

Staff is requesting direction on a policy for implementing or, if necessary, amending Chapter 15.16 to ensure consistent treatment of both requests for new encroachments as well as enforcement of the Code when existing encroachments are reported. The attached memorandum describes the encroachment regulations in Chapter 15.16, the City's current enforcement practices as well as that of other cities, and the potential issues with encroachments.

**OTHER ALTERNATIVES CONSIDERED**

N/A.

**COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT**

The encroachment permit policy would contribute to the Tigard Beyond Tomorrow goals of "Communication" and "Improve Traffic Safety." Implementation of an encroachment policy may provide the City the opportunity to inform citizens of the location of the right-of-way and utility easements, and of a Code requirement that is not widely known, and may prevent or remove encroachments that create a traffic hazard.

**ATTACHMENT LIST**

- Memorandum to Council regarding Encroachment Permit Policy

**FISCAL NOTES**

None at this time. Enforcement of the existing Code regulation on encroachments would require some additional staff time, but staff does not expect a substantial increase in workload. Other Code requirements, such as sending notice of an encroachment application to adjacent homeowners and recording revocable permits, will result in additional costs for postage, the filing fee (\$22 for the first page; \$5 for each additional page) and other incidental administrative costs.



# MEMORANDUM

TO: Mayor Dirksen and City Council

FROM: Nancy Werner, Right-of-Way Administrator *NW*

RE: Encroachment Permit Policy

DATE: February 13, 2007

Staff is requesting direction on a policy for implementing or, if necessary, amending Chapter 15.16 of the Tigard Municipal Code, which regulates encroachments in the City's unimproved rights-of-way, utility easements and other public property. Staff would like to ensure a consistent response to requests for encroachments and consistent enforcement of existing encroachments built without permits.

## I. MUNICIPAL CODE REQUIREMENTS

Chapter 15.16 of the Tigard Municipal Code prohibits, with limited exceptions, the placement of any structures or vegetation in unimproved rights-of-way, easements or other public property without a revocable permit from the City. The unimproved right-of-way refers to the portion of the right-of-way other than streets and sidewalks. The unimproved right-of-way often extends several feet behind the sidewalk into the area many homeowners mistakenly assume is part of their lot. In addition, most developments include utility easements that allow public and private utilities to place facilities outside the right-of-way. Utility easements generally are located at the edge of the property line (where the right-of-way ends), and also may be located along the side or rear lot lines. Thus, in many cases, the right-of-way and easements extend well into the grass or landscaped area in front and of homes.

Chapter 15.16 prohibits any encroachment into the unimproved right-of-way,<sup>1</sup> easements or other public property (such as parks) unless the homeowner receives a permit or is exempt from the permit requirement. An encroachment is exempt from the permit requirement if it does not create a line of sight hazard and the encroachment:

- Would have a minor impact on the present or planned use of the public right-of-way, easement or public property;
- Is expressly permitted by the Code; or

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<sup>1</sup> Encroachments into the improved right-of-way (i.e., streets and sidewalks), such as abandoned vehicles or property blocking the sidewalk, are regulated in other Chapters of the Code.



- Is listed as exempt in section 15.16.020 of the Code (which includes mailboxes, temporary signs permitted under the sign code, guard/handrails, lawns, plants, and approved street trees).

The Code sets forth a detailed procedure for applying for and receiving a permit. The applicant must provide a description and scale drawing of the proposed encroachment, a survey (if required by the City), a petition indicating support for the encroachment by owners or occupants within 200 feet in each direction of the boundary of the encroachment, and a fee set by Council resolution.

The City may approve, deny or modify the application, and may place conditions on the approval to ensure compliance with the Code and to protect the public interest.<sup>2</sup> The application may be approved if the following standards can be met (or are clearly not applicable):

- The appropriate clearances are met:
  - 3 feet on all sides of a fire hydrant;
  - 1 foot behind and 2 feet from the sides of water meter boxes (unless the applicant pays for relocation);
  - 7 feet from manholes or underground pipelines such as City sewer lines, water lines and storm drain lines;
  - Any clearance required by underground utilities such as power, telephone, and cable TV that are affected by the encroachment;
- The encroachment does not prevent access to, cover or block the flow of water to or into catch basins, ditches or swales, or otherwise alter the natural drainage patterns in a manner that adversely affects other property;
- The adjacent right-of-way has been fully improved to its planned dimensions with associated curbs, sidewalks, utilities and street trees, provided there is at least one foot clearance between the encroachment and the back edge of the sidewalk;
- There is sufficient room for off-street parking or pedestrian travel, and the encroachment does not result in a loss of area needed for parking, vehicular maneuvering, or pedestrian travel; and
- It is determined that the requested encroachment is consistent with the current use of the public right-of-way or easement.

The City must send notice of the decision on the application to the owners or occupants within 200 feet of the proposed encroachment. The applicant and any of the owners/occupants within 200 feet may appeal the decision to the City Council. If the City approves the application, the revocable permit must be recorded against the title of the benefiting property.

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<sup>2</sup> Conditions include requiring an insurance policy if the encroachment may subject the City to liability; limits on the time the encroachment may remain; appropriate maintenance; and a fee for use of public property.

Chapter 15.16 declares that the installation or maintenance of an encroachment in violation of the Chapter, or failure to comply with the permit terms, is a civil infraction subject to enforcement and a public nuisance subject to abatement.

## **II. CURRENT COMPLIANCE/ENFORCEMENT**

### **A. City of Tigard**

The City currently has no encroachment permit application and Council has not set the fee referenced in the Code. It does not appear that the City has been advising people that inquire about building a fence or wall of the potential need for an encroachment permit until very recently.

With respect to existing encroachments, the City does not appear to have enforced Chapter 15.16 except in a few cases in which the encroachment was blocking access to utilities or obstructing traffic signs. In a few instances, staff has required removal of encroachments such as storage sheds in order to access and repair City facilities. The City also has occasionally paid the costs to remove or reinstall encroachments after working in the easement. These generally have not been handled as code violations (e.g., citations, potential fines, etc.), but as informal, case-by-case discussions to obtain access to an easement.

### **B. Other Jurisdictions**

Most area cities have a code provision similar to Chapter 15.16 prohibiting or restricting encroachments in the right-of-way without a permit or other permission from the city. Several cities do not have an encroachment permit, but do occasionally enter into agreements with homeowners to allow encroachments, provided the homeowner agrees to remove the encroachment if requested by the city.

The cities generally indicated that enforcement of existing encroachments is generated by complaint only (staff does not go looking for violations) and is handled on a case-by-case basis. Staff will inspect the encroachment and consider various factors, including safety concerns, access to utilities, likelihood of need to use additional right-of-way, and other existing encroachments in the neighborhood, before determining how to handle a specific encroachment.

Most cities indicated that if an encroachment is blocking access to utility facilities or is a safety issue, the code enforcement officer will require the homeowner to remove it at the homeowners' expense. Several cities indicated that they have not required removal or taken further action on encroachments that do not appear to create an access or safety issue. Other cities inform the homeowner of the code violation and explain that the encroachment must be removed if necessary, but may not pursue any enforcement action. In some cases, cities have required the homeowner to get a permit, but not remove the encroachment if there is no access or safety issue.

### **III. POTENTIAL IMPACTS OF ENCROACHMENTS**

Many encroachments may exist in the right-of-way, easements or public property without impact to the City or public safety. However, staff have recognized several concerns with encroachments that are erected without notice or permission to the City, including:

- Liability to the City for an encroachment that causes injury;
- Increased costs in improving rights-of-way due to demands that the City pay to remove or relocate the encroachment;
- Claims by homeowners that they have the legal right to the public property on which the encroachment was built;
- Interference with emergency responders by blocking or obscuring the address on the building or inhibiting access to the building;
- Vision clearance issues for vehicles, pedestrian, bicyclists, etc.
- Blocking or obscuring the view of speed limit signs, stop signs, etc.
- Blocking or hindering access to hydrants, water meters, manholes and other facility access points;
- Increased costs for repairs to and maintenance of City facilities due to moving or avoiding encroachment or to repair a damaged encroachment;
- Damage to sidewalks and streets for installation of new private utilities (phone, cable, etc.) that could have gone in an easement but for the encroachment preventing or limiting access.

N.L.W.